

INTERNATIONAL COURT OF JUSTICE

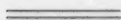
PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

**DISPUTE REGARDING
NAVIGATIONAL AND RELATED RIGHTS**

(COSTA RICA v. NICARAGUA)

VOLUME IV

Reply of Costa Rica;
Rejoinder of Nicaragua



COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

**DIFFÉREND RELATIF À DES DROITS
DE NAVIGATION ET DES DROITS CONNEXES**

(COSTA RICA c. NICARAGUA)

VOLUME IV

Réplique du Costa Rica;
duplique du Nicaragua



Abbreviated reference:

*I.C.J. Pleadings, Dispute regarding Navigational and Related Rights
(Costa Rica v. Nicaragua), Vol. IV*

Référence abrégée:

*C.I.J. Mémoires, Différend relatif à des droits de navigation et des droits connexes
(Costa Rica c. Nicaragua), vol. IV*

ISSN 0074-4433
ISBN 978-92-1-071105-0

Sales number
N° de vente:

995

DISPUTE REGARDING
NAVIGATIONAL AND RELATED RIGHTS
(COSTA RICA v. NICARAGUA)

=====

DIFFÉREND RELATIF À DES DROITS
DE NAVIGATION ET DES DROITS CONNEXES
(COSTA RICA c. NICARAGUA)



INTERNATIONAL COURT OF JUSTICE
PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

**DISPUTE REGARDING
NAVIGATIONAL AND RELATED RIGHTS**

(COSTA RICA v. NICARAGUA)

VOLUME IV
Reply of Costa Rica;
Rejoinder of Nicaragua

COUR INTERNATIONALE DE JUSTICE
MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

**DIFFÉREND RELATIF À DES DROITS
DE NAVIGATION ET DES DROITS CONNEXES**

(COSTA RICA c. NICARAGUA)

VOLUME IV
Réplique du Costa Rica;
duplica du Nicaragua



INTERNATIONAL LAW
TREATY OF THE
NAVIGATION AND RELATED RIGHTS

DISPUTE REGARDING NAVIGATION AND RELATED RIGHTS

CONTRACT OF THE

WORLD
League of Nations
League of Nations

THE
NAVIGATION AND RELATED RIGHTS

DIFFEREND RELATIF À DES DROITS DE NAVIGATION ET DES DROITS CONNEXES

CONTRACT OF THE

WORLD
League of Nations
League of Nations



IMPRIMÉ EN FRANCE
PRINTED IN FRANCE

This case, entered on the Court's General List on 29 September 2005 under number 133, was the subject of a Judgment delivered on 13 July 2009 (*Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment, I.C.J. Reports 2009, p. 213).

The documents relating to the case are being published in the following order:

- Volume I. Application; Memorial of Costa Rica.
- Volume II. Memorial of Costa Rica (*continuation*).
- Volume III. Counter-Memorial of Nicaragua; Reply of Costa Rica.
- Volume IV. Reply of Costa Rica (*continuation*); Rejoinder of Nicaragua.
- Volume V. Rejoinder of Nicaragua (*continuation*); Verbatim Records of the Hearings.

For the purposes of this edition, the Court has decided that the written pleadings will be reproduced *in full*; it will therefore also include the documents annexed to those pleadings, which are not made available on the Court's website. The reproduction of all the annexed documents in this edition will enable practitioners to appreciate better the full scope of the arguments developed by the Parties in their written pleadings. As usual, the verbatim records of the public hearings appear after the pleadings; these verbatim records are published here in their final corrected versions, providing a useful supplement to the provisional versions made available on the Court's website.

Since the Court wishes to publish these documents as quickly as possible, it has been decided, where technically feasible, to reproduce the pleadings in the form in which they were submitted by the Parties.

Some documents in this edition have thus been scanned, and there are consequently two types of page numbering for the items included in these volumes: in addition to the normal continuous pagination, the original page numbers of the scanned documents are provided in brackets for reference purposes.

The Hague, 2011.

La présente affaire, inscrite au rôle général de la Cour sous le numéro 133 le 29 septembre 2005, a fait l'objet d'un arrêt rendu le 13 juillet 2009 (*Différend relatif à des droits de navigation et des droits connexes (Costa Rica c. Nicaragua)*, arrêt, C.I.J. Recueil 2009, p. 213).

Les documents relatifs à cette affaire sont publiés dans l'ordre suivant:

Volume I. Requête; mémoire du Costa Rica.

Volume II. Mémoire du Costa Rica (*suite*).

Volume III. Contre-mémoire du Nicaragua; réplique du Costa Rica.

Volume IV. Réplique du Costa Rica (*suite*); duplique du Nicaragua.

Volume V. Duplique du Nicaragua (*suite*); comptes rendus d'audience.

■

Aux fins de la présente édition, la Cour a décidé que les pièces de la procédure écrite seront reproduites *intégralement*; cette édition comprendra donc aussi les documents annexés auxdites pièces — qui ne sont pas mis en ligne sur le site Internet de la Cour. La reproduction de l'ensemble des documents annexés dans cette édition permettra aux praticiens de mieux apprécier, dans toute sa portée, l'argumentation développée par les Parties dans leurs écritures. Comme à l'accoutumée, les comptes rendus des audiences publiques sont publiés à la suite des pièces de procédure écrite; ces comptes rendus apparaissent ci-après dans leur version finale corrigée — qui complète ainsi utilement la version provisoire mise en ligne sur le site de la Cour.

La Cour souhaitant que lesdits documents paraissent aussi rapidement que possible, il a été décidé, chaque fois que les moyens techniques le permettraient, de reproduire les pièces de procédure en l'état où elles ont été présentées par les Parties.

Ainsi, certaines pièces de la présente édition ont été scannées et, de ce fait, les titres courants du présent ouvrage comportent deux genres de folios: outre la pagination continue habituelle, on trouvera, entre crochets, la pagination d'origine des pièces scannées, à laquelle il faudra se reporter en cas de renvoi.

La Haye, 2011.

CONTENTS - TABLE DES MATIÈRES

Reply of Costa Rica — Réplique du Costa Rica

Annexes to the Reply of Costa Rica

Agreements, Awards and Judicial Decisions

<i>Annex 1. Royal Charter of the King of Spain to Diego López, 10 February 1576</i>	
Source: Archivo de Indias, <i>Colección de Documentos Inéditos relativos al descubrimiento, conquista y organización de las antiguas posesiones españolas de América y Oceanía, sacadas de los Archivos del Reyno y muy especialmente del de Indias</i> (Madrid: Imprenta de José María Pérez, Misericordia, 2, 1870), pp. 528-537. English translation by Costa Rica . . .	3
<i>Annex 2. Resolution by the Royal Audiencia of Guatemala regarding the election of members of the Spanish Cortes for Costa Rica and Nicoya, 3 May 1813</i>	
Source: P. Pérez Zeledón, <i>Reply to the Argument of Nicaragua on the Question of the Validity or Nullity of the Treaty of Limus of April 15, 1858</i> (Washington: Gibson Bros., 1887), pp. 103-104	5
<i>Annex 3. Masaya Treaty, 26 April 1823</i>	
Source: <i>Obras Históricas Completas del Licenciado Jerónimo Pérez, impresas por disposición del Excelentísimo Sr. Presidente de la República Don Adolfo Díaz bajo la dirección y con notas del Doctor Pedro Joaquín Chamorro</i> (Managua: Imprenta y Encuadernación Nacional, 1928), pp. 465-467. English translation by Costa Rica	9
<i>Annex 4. Decree of the Central American Federation Congress regarding an interoceanic canal through Nicaragua, Guatemala, 16 June 1825</i>	
Source: <i>Compilación de Leyes no insertas en las Colecciones Oficiales, formada por el Lic. Don Cleto González Víquez, Tomo 1</i> (San José), pp. 411-413. English translation by Costa Rica.	12
<i>Annex 5. Decree of the Federal Congress of Central America in 1825, approving the annexation of Nicoya to Costa Rica, 9 December 1825</i>	
Source: P. Pérez Zeledón, <i>Argument on the Question of the Validity of the Treaty of Limits between Costa Rica and Nicaragua</i> (Washington: Gibson Bros., 1887), p. 192	18
<i>Annex 6. Contract between Nicaragua and the American Atlantic and Pacific Ship-Canal Company (Zepeda-Juarez-White), León, Articles 12, 14, 21 and 37, 27 August 1849</i>	
Source: Counter-Memorial of Nicaragua, Annex 14. English translation by Costa Rica	21
<i>Annex 7. United States-Nicaragua, General Treaty of Amity, Navigation, and Commerce (Squier-Zepeda), León, Articles IV, V, VI, VII, VIII, XXVI, XXXIII, XXXIV, XXXV, 3 September 1849</i>	
Source: C. L. Wiktor, <i>Unperfected Treaties of the United States of America 1776-1976, Vol. 1, 1776-1855</i> (New York: Oceana Publications, 1976), pp. 279-280, 282-284, 294, 297-300	23
<i>Annex 8. United States-Great Britain, Convention concerning a Ship Canal Connecting the Atlantic and Pacific Oceans (Clayton-Bulwer), Washington,</i>	

	Page
Preamble and Articles III, V and VIII, 19 April 1850 (in force 4 July 1850) Spanish version: D. Manuel M. de Peralta, <i>El Canal Interoceánico de Nicaragua y Costa Rica en 1620 y en 1887</i> (Bruselas: Imprenta de Ad. Mertens, 1887), pp. 68-71. English version: 104 CTS 41-46	35
Annex 9. Costa Rica-United States Treaty of Friendship, Commerce and Navigation (Molina-Webster), Washington, D.C., Preamble and Articles II, IV, VI, VII, VIII, XI and XII, 10 July 1851 Sources: English version: <i>Report of the Isthmian Canal Commission 1899-1901</i> (Washington: Government Printing Office, 1904), pp. 417-420. Spanish version: <i>Colección de los Tratados Internacionales Celebrados por la República de Costa Rica</i> , Tomo Primero (San José: Tipografía Nacional, 1892), pp. 65-72.	46
Annex 10. United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Cass-Irisarri), Washington, D.C., Articles II, IV, VII, VIII, XV, XVI, XVII and XX, 16 November 1857 Sources: English version: C. L. Wiktor, <i>Unperfected Treaties of the United States of America</i> , Vol. 2, 1856-1882 (New York: Oceana Publications, 1976), pp. 135-143. Spanish version: US National Archives, Washington, <i>Unperfected Treaty Series W-2</i>	61
Annex 11. Costa Rica-Nicaragua Treaty of Peace, Friendship, Alliance and Commerce (Mora-Martínez), Rivas, Preamble and Articles 18, 19, 20, 30 April 1858 Source: J. M. Bonilla, <i>Colección de Tratados Internacionales</i> (Managua: Tipografía Internacional, 1909). English translation by Costa Rica	95
Annex 12. Nicaragua-Costa Rica-F. Belly, Convention relative to the Concession for an Inter-Oceanic Canal by the River San Juan and the Lake of Nicaragua (Mora-Martínez-Belly), Rivas, Articles 14 (French, Spanish and English); Articles 4 and 25 (French), 1 May 1858 Sources: Spanish version: Archives diplomatiques, ministère des affaires étrangères, Paris, Republic of France. French version: F. Belly, <i>Carte d'étude pour le tracé et le profil du Canal de Nicaragua</i> (Paris: Chez Dalmont et Dunod, éditeurs, 1858), Document II, pp. 10, 21, 23 and 26. English translation by Costa Rica	102
Annex 13. United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Lamar-Zeledón), Managua, Preamble, Articles II and XX, 16 March 1859 Sources: English version: C. L. Wiktor, <i>Unperfected Treaties of the United States of America</i> , Vol. 2, 1856-1882 (New York: Oceana Publications, 1976), pp. 157-159, 166. Spanish version: US National Archives, Washington, <i>Unperfected Treaty Series X-2</i>	112
Annex 14. France-Nicaragua, Treaty of Friendship, Commerce and Navigation (Sartiges-Maximo Jerez), Washington, Article XXXIII, 11 April 1859 Source: 120 CTS 337.	125
Annex 15. Great Britain-Nicaragua, Treaty of Friendship, Commerce and Navigation (Lennox Wyke-Zeledón), Managua, Preamble and Articles IV, V, VII, XI, XVII, XVIII, XXIII and XXVI, 11 February 1860 Source: 121 CTS 364, 367-372, 375-377, 381-383	129
Annex 16. Nicaragua-Central American Transit Company Inter-Oceanic Transit Contract (Mc Anna-Morris), Washington, Articles VII, XIX and XXI, 10 November 1863 Source: NCM Annex 18. English translation by Costa Rica	144

	Page
<i>Annex 17. United States-Nicaragua Treaty of Friendship, Commerce and Navigation (Ayon-Dickinson), Managua, Preamble, Articles II, VI, VII, VIII, IX, XV, XVI and XVII, 21 June 1867</i> Source: G. P. Sanger, <i>The Statutes at Large, Treaties and Proclamations of the United States of America from December 1867, to March 1869</i> , Vol. XV (Boston: Little, Brown and Company, 1869), pp. 549-550, 552-555, 558-561	146
<i>Annex 18. Costa Rica-Nicaragua, Treaty of Peace and Friendship (Volio-Zelaya), San José, Preamble, 30 July 1868</i> Sources: English version: 134 CTS 478. Spanish version: J. M. Bonilla, <i>Colección de Tratados Internacionales</i> (Managua: Tipografía Internacional, 1909), pp. 375-376	158
<i>Annex 19. Costa Rica-Nicaragua, Treaty for the Excavation of an Inter-Oceanic Canal (Jiménez-Montealegre), San José, Articles IX, XIV, XV, XVI, XIX, XXIII, XXVII and XXVIII, 18 June 1869</i> Source: NCM Annex 8. English version: (1870-1871) LXI BFSP 1144-1148	165
<i>Annex 20. Costa Rica-Nicaragua, Treaty for the Deviation of the Waters of the Colorado River (Jiménez-Montealegre), San José, Articles 2 and 4, 21 June 1869</i> Source: Spanish version: J. M. Bonilla, <i>Colección de Tratados Internacionales</i> (Managua: Tipografía Internacional, 1909), pp. 403-405. English translation by Costa Rica	172
<i>Annex 21. Costa Rica-Nicaragua, Canalization Convention (Navas-Castro), San José, Preamble, 19 January 1884</i> Source: Spanish version: J. M. Bonilla, <i>Colección de Tratados Internacionales</i> (Managua: Tipografía Internacional, 1909), p. 469. English translation by Costa Rica	179
<i>Annex 22. Costa Rica-Nicaragua, Treaty of Peace, Friendship, Commerce and Extradition (Navas-Castro), San José, Preamble, Articles VIII, XIX, XXIX and XXXIII, 19 January 1884</i> Source: Spanish version: J. M. Bonilla, <i>Colección de Tratados Internacionales</i> (Managua: Tipografía Internacional, 1909), pp. 455-458, 460-461, 463-464. English translation by Costa Rica	184
<i>Annex 23. United States of America-Nicaragua, Treaty providing for the construction of an interoceanic canal across the territory of Nicaragua (Frelinghuysen-Zavala), Washington, D.C., Preamble, Articles IV, V, VII and XIII, 1 December 1884</i> Sources: English version: <i>Report of the Isthmian Canal Commission 1899-1901</i> (Washington: Government Printing Office, 1904), Appendix L, pp. 359-361. Spanish version: <i>Memoria de la Secretaría de Relaciones Exteriores y Carteras Anexas de la República de Costa Rica</i> (San José: Imprenta Nacional, 1884-1885)	195
<i>Annex 24. Costa Rica-Nicaragua Treaty of Peace, Commerce and Extradition (Esquivel-Chamorro), San José, Preamble, Articles VII, XVIII, XXVIII and XXXII, 9 October 1885</i> Source: J. M. Bonilla, <i>Colección de Tratados Internacionales</i> (Managua: Tipografía Internacional, 1909), pp. 489-491, 493-494, 496-497. English translation by Costa Rica	204
<i>Annex 25. Contract between the Government of the Republic of Nicaragua and the Nicaragua Canal Association of New York for the opening of an</i>	

	Page
inter-oceanic canal (Cárdenas-Menocal), Managua, Articles VII, XIII, XVI, XXX, and XL, 23 March 1887 Source: <i>Report of the Isthmian Canal Commission, 1899-1901</i> (Washington: Government Printing Office, 1904), pp. 389-392, 394-396	214
<i>Annex 26.</i> Cleveland Award upon the validity of the Treaty of Limits of 1858 between Costa Rica and Nicaragua, Washington, D.C., Spanish version of Award, Second Article and Third Article, point 5, 22 March 1888 Source: Spanish version: <i>Memoria Anual de la Secretaría de Relaciones Exteriores y Carteras Anexas, 1888</i> (San José: Imprenta Nacional, 1888)	222
<i>Annex 27.</i> Contract between the Government of the Republic of Costa Rica and the Nicaragua Canal Association for the opening of an inter-oceanic canal (Pérez-Menocal). San José, Preamble, Articles VI, VII, XXVI, XXXVI, XXXVII, XXXIX, XL and XLV, 31 July 1888 Sources: English version: A. R. Colquhoun, <i>The Key of the Pacific: The Nicaragua Canal</i> (Westminster: Archibald Constable and Company, 1895), pp. 386-389, 396-397, 399-404. Spanish version: Archivo Nacional de Costa Rica	226
<i>Correspondence</i>	
<i>Annex 28.</i> Report regarding the Province of Costa Rica, presented by Luis Díez Navarro to the Captain General of Guatemala, 1744 Source: <i>Revista de los Archivos Nacionales</i> , Año III, septiembre y octubre de 1939, Nos. 11 y 12 (San José: Imprenta Nacional, 1939), p. 581. English translation by Costa Rica	251
<i>Annex 29.</i> Secretary of State of the United States, T. F. Bayard, to Nicaraguan Envoy Extraordinary and Minister Plenipotentiary, Horacio Guzmán, 31 October 1887 Source: United States Department of State Archives	253
<i>Annex 30.</i> Nicaraguan Envoy Extraordinary and Minister Plenipotentiary, Horacio Guzmán, to Secretary of State of the United States, T. F. Bayard, 1 November 1887 Source: United States Department of State Archives	256
<i>Annex 31.</i> Note from Commandant of the Rosalía Revenue Guard to the Deputy Inspector of the Treasury, 20 October 1915 Source: Archivo Nacional de Costa Rica. English translation by Costa Rica.	259
<i>Annex 32.</i> Note from Commandant of the Rosalía Revenue Guard to the Deputy Inspector of the Treasury, 18 December 1915 Source: Archivo Nacional de Costa Rica. English translation by Costa Rica.	261
<i>Annex 33.</i> Note from Sub-Inspector of the Revenue Guard in Boca de San Carlos to Lieutenant Lopez of the General Inspectorate of the Treasury, 26 July 1968 Source: Archivo Nacional de Costa Rica. English translation by Costa Rica.	263
<i>Annex 34.</i> Note from Sub-Inspector of the Revenue Guard in Boca de San Carlos to Lieutenant Lopez of the General Inspectorate of the Treasury, 29 July 1968 Source: Archivo Nacional de Costa Rica. English translation by Costa Rica.	265
<i>Annex 35.</i> Note from the Revenue Guard of Boca de San Carlos to Chief of Personnel of the General Inspectorate of the Treasury, 5 August 1968	

	<i>Page</i>
Source: Archivo Nacional de Costa Rica. English translation by Costa Rica	267
<i>Annex 36.</i> Costa Rican Police Major, Francisco Córdoba Córdoba, to Costa Rican Minister of Public Security, Luis Fishman Z., Note No. C.D. 0666-91, 19 August 1991. English translation by Costa Rica	269
<i>Annex 37.</i> Costa Rican Police Major and Chief of Post, Francisco Córdoba Córdoba, to Costa Rican Director of the Civil Guard, Lieutenant Colonel Guillermo Sáenz, Note No. C.D.O. 081-92, 29 April 1992. English translation by Costa Rica	272
<i>Annex 38.</i> Costa Rican Chief of Post, Major Francisco Córdoba Córdoba, to Costa Rican Director of the Civil Guard, Lieutenant Colonel Guillermo Sáenz, Note No. C.A. 372-92, 25 May 1992. English translation by Costa Rica	275
<i>Annex 39.</i> Costa Rican Foreign Minister, Roberto Tovar Faja, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-37-06, 26 January 2006. English translation by Costa Rica	278
<i>Annex 40.</i> Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-JI/262/02/06, 17 February 2006. English translation by Costa Rica	280
<i>Annex 41.</i> Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-AI/340/03/06, 16 March 2006. English translation by Costa Rica	283
<i>Annex 42.</i> Costa Rican Foreign Minister, Roberto Tovar Faja, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-187-06, 5 May 2006. English translation by Costa Rica	285
<i>Annex 43.</i> Nicaraguan Foreign Minister, Norman Caldera Cardenal, to Costa Rican Foreign Minister, Roberto Tovar Faja, Note No. MRE/DM-JI/511/05/06, 8 May 2006. English translation by Costa Rica	287
<i>Annex 44.</i> Director, Costa Rican Social Security Fund, Health Area Puerto Viejo de Sarapiquí, Dr. Thais Ching Zamora, to First Consul, Nicaraguan Consulate, Ciudad Quesada, Licenciado Mario Rivas Baldelomar, Note No. 346-2006, 14 June 2006. English translation by Costa Rica	290
<i>Annex 45.</i> Costa Rican Foreign Minister, Bruno Stagno Ugarte, to Nicaraguan Foreign Minister, Norman Caldera Cardenal, Note No. DM-254-06, 14 August 2006. English translation by Costa Rica	293
<i>Annex 46.</i> Co-ordinator of the Northern Regional Office of the Ombudsman's Office, Licda. Laura Navarro Rodríguez, to Consul of Nicaragua at Ciudad Quesada, Mario Rivas, Note No. DHR-RN-051-2007, 22 May 2007. English translation by Costa Rica	295
<i>Annex 47.</i> Nicaraguan Minister Counsellor, Emilio Rappaccioli Pasos, to Co-ordinator of the Northern Regional Office of the Ombudsman's Office, Licda. Laura Navarro Rodríguez, Note No. ENCR/NF/EN/133/2007, 25 May 2007. English translation by Costa Rica	297
<i>Annex 48.</i> Nicaraguan Embassy in Costa Rica, "Authorization to navigate" given to the Ombudsman's Office and the Ministry of Health Personnel, 25 May 2007. English translation by Costa Rica	299
<i>Annex 49.</i> IMAS Regional Manager in San Carlos, Marvin Chaves Thomas, to Nicaraguan Consulate, Ciudad Quesada, José Reinaldo Rodríguez Lindo, Note No. GRHN-188-08-07, 14 August 2007. English translation by Costa Rica	301

	<i>Page</i>
<i>Affidavits</i>	
<i>Annex 50.</i> Leonel Morales Chacón, 30 April 2007. English translation by Costa Rica	303
<i>Annex 51.</i> Carlos Lao Jarquín, 28 July 2007. English translation by Costa Rica	306
<i>Annex 52.</i> Jorge Manuel Lao Jarquín, 28 July 2007. English translation by Costa Rica	309
<i>Annex 53.</i> Rodrigo Antonio Zamora Arroyo, 28 July 2007. English translation by Costa Rica	312
<i>Annex 54.</i> Victor Julio Vargas Hernández, Marleny Rojas Vargas, Mario Salas Jiménez and Leonel Morales Chacón, 29 July 2007. English translation by Costa Rica	315
<i>Annex 55.</i> Thais Ching Zamora, 8 August 2007. English translation by Costa Rica	319
<i>Annex 56.</i> Marvin Chaves Thomas, 5 November 2007. English translation by Costa Rica	323
<i>Annex 57.</i> Laura Patricia Navarro Rodríguez, 6 November 2007. English translation by Costa Rica	326
<i>Press Reports</i>	
<i>Annex 58.</i> "New Army Posts in the San Juan River" in <i>El Nuevo Diario</i> , Managua, 26 March 2007. English translation by Costa Rica	329
<i>Annex 59.</i> "Neighbours from the San Juan plea for help" in <i>Al Día</i> , San José, 14 May 2007. English translation by Costa Rica	332
<i>Annex 60.</i> "US\$34 fee marks the end of local tourism" in <i>La Nación</i> , San José, 10 June 2007. English translation by Costa Rica	338
<i>Annex 61.</i> "The San Juan River should be militarized" in <i>El Nuevo Diario</i> , Managua, 7 October 2007. English translation by Costa Rica	341
<i>Annex 62.</i> "Health authorities watch the northern border for leptospirosis" in <i>La Nación</i> , San José, 30 October 2007. English translation by Costa Rica	343
<i>Other Documents</i>	
<i>Annex 63.</i> Tabla para facilitar la elección de los diputados a Cortes, 28 July 1820 Source: Archivo Nacional de Costa Rica	345
<i>Annex 64.</i> Nicoya Act, 25 July 1824 Source: Archivo Nacional de Costa Rica. English translation by Costa Rica	347
<i>Annex 65.</i> Nicaraguan Constitution, Article II, 8 April 1826 Source: P. Pérez Zeledón, <i>Reply to the Argument of Nicaragua on the Question of the Validity or Nullity to the Treaty of Limits of April 15, 1858</i> (Washington: Gibson Bros., 1887), pp. 107-109	350
<i>Annex 66.</i> F. Belly, <i>A travers l'Amérique Centrale: le Nicaragua et le canal interocéanique</i> , tome second (Paris: Librairie de la Suisse Romande, 1867), pp. 150-165.	355
<i>Annex 67. (a)</i> "Departure Clearance Certificate" issued by the Costa Rican Revenue Guard in Boca del Río Sarapiquí to a private citizen, 16 April 1968 <i>(b)</i> "Departure Clearance Certificate" issued by the Costa Rican Revenue Guard in Boca del Río Sarapiquí to a Costa Rican Park Ranger, 13 June 1968 English translation by Costa Rica	373
<i>Annex 68.</i> Speech by President of Nicaragua to the Diplomatic Corps, 14 September 2005 Source: Nicaraguan Presidency. English translation by Costa Rica	378

	<i>Page</i>
<i>Annex 69. Nicaraguan Presidential Decree No. 65-2005 of 28 September 2005</i> Source: <i>Nicaraguan Official Gazette No. 188</i> of 29 September 2005. English translation by Costa Rica	381
<i>Annex 70. Nicaraguan Presidential Decree No. 97-2005 of 2 December 2005</i> Source: <i>Nicaraguan Official Gazette No. 237</i> of 7 December 2005. English translation by Costa Rica	388
<i>Annex 71. "Departure clearance certificate" charged to Jorge Lao, 25 October</i> 2007. English translation by Costa Rica	393
<i>Annex 72. (a) "Immigration dispatch" charged to Jorge Lao, 25 October 2007</i> (b) "Transit permit at border point" charged to Jorge Lao, 25 October 2007. English translation by Costa Rica	396
 Rejoinder of Nicaragua — Duplique du Nicaragua	
<i>List of Maps and Photographs</i>	
<i>Sketch maps</i>	
1. The Sarapiquí route envisioned before 1858	516
2. Approximate territory ceded by Nicaragua to Costa Rica in the Treaty of Limits	520
3. Costa Rican tourism route from 1990s to present	574
4. The Indio Maíz Grand Biological Reserve and the San Juan River Wildlife Refuge, produced by the Ministry of the Environment and Natural Resources.	580
5. Distribution of the manatee, from Jiménez Pérez, Ignacio, <i>The Manatees</i> <i>of the San Juan River and the Tortuguero Channels: Ecology and</i> <i>Conservation</i> . Managua: Araucaria, 2000, p. 33	584
6. Map showing protected areas adjacent to the San Juan River	588
7. Nicaraguan army and Mareña posts on the San Juan River	589
8. Alleged locations where Costa Rican public vessels navigated	654
9. Nicaraguan and Costa Rican military posts	662
10. Roads to Costa Rican military posts produced by EcoMapas, S.A.	678
 <i>Map</i>	
1. 1855 map showing Nicaragua's claim to Guanacaste/Nicoya	521
 <i>Photographs</i>	
1. Photograph of wetlands of the Indio Maíz Biological Reserve	582
2. Photograph of a poison dart frog	582
3. Aerial photograph of the San Juan River, taken from the Nicaraguan side	592
4. Photographs of Costa Rican residents found taking freshly cut planks of wood into Costa Rica on the San Juan River	592
5. Photograph of a paca	594
6. Photograph of a deer	594
7. Photograph of a tapir	594
8. Photograph of a red macaw	594
9. Photographs showing the course of the San Juan River darkening after 5 p.m.; photographs taken at 5:40, 6:06 and 6:20 in March 2008	609
CHAPTER I. INTRODUCTION	403
Section I. Points of agreement	404
Section II. Remaining points of disagreement.	408

	<i>Page</i>
Section III. Structure of the Rejoinder	420
CHAPTER II. THE APPLICABLE LAW	422
Section I. The character of the 1858 Treaty as a treaty of boundaries	422
A. Introduction	422
B. The legal and historical context of the 1858 Treaty.	424
C. Admissions by Costa Rica	429
D. The applicable principles of interpretation	430
E. The application of the general rule of interpretation to the Treaty of Limits	432
1. The object and purpose indicated in the text of the Treaty. . . .	438
(a) The title and the preamble	438
(b) The provisions of the Treaty	439
(c) The general character of the Treaty of 1858 as revealed in the diplomatic correspondence and negotiations subsequent to the Treaty of 1858	442
(d) The object and purpose as revealed in the Cleveland Award of 22 March 1888 and the report to the arbitrator by George L. Rives, Assistant Secretary of State, of 2 March 1888	443
F. The role of inter-temporal law in the present case	444
1. First element of confusion	444
2. Second element of confusion	446
3. Third element of confusion	447
G. The primary object and purpose of the 1858 Treaty as a treaty of limits: the legal consequences	449
1. The theses of Costa Rica concerning treaty interpretation	449
2. The response of Costa Rica to the analysis presented in the Counter-Memorial	451
H. Conclusion: the primary object and purpose of the 1858 Treaty was the definitive settlement of a long-standing dispute concerning title to territory	458
Section II. The role of general international law and other particular rules . .	461
A. The Treaty prevails: the contingent and secondary relevance of general international law	462
B. Other applicable rules	469
1. Relevant customary rules	469
2. The "instruments" invoked by Costa Rica	472
(a) The 1956 Fournier-Sevilla Agreement	473
(b) The 1995 Cuadra-Castro Joint Communiqué	475
(c) The 1998 Cuadra-Lizano Joint Communiqué	478
3. The 1916 judgment of the Central American Court of Justice . . .	480
Section III. The scope of the Cleveland Award	482
A. The Cleveland Award limited Costa Rica's rights to navigate the San Juan with public vessels	483
B. The meaning of "con objetos de comercio" was not decided in the Cleveland Award	490
C. Conclusion	494
Conclusions	494

	<i>Page</i>
CHAPTER III. THE NATURE AND EXTENT OF COSTA RICA'S RIGHT TO NAVIGATE "CON OBJETOS DE COMERCIO"	499
Introduction	499
Section I. Interpretation of the 1858 Treaty of Limits according to the Vienna Convention on the Law of Treaties	502
A. The language of the Treaty with respect to Costa Rica's navigation rights	502
B. The object and purpose of Costa Rica's navigation rights under the Treaty	507
1. Costa Rica's need for a trade route to the Atlantic	508
(a) The inadequacy of existing trade routes	510
(b) The idea of the San Juan route	513
(c) Negotiations with Nicaragua over the San Juan River prior to the 1858 Treaty	516
2. Article VI of the 1858 Treaty in its historical context	528
3. Early practice of the Parties under the Treaty of 1858	530
(a) The fate of the Sarapiquí/San Juan Trade route	530
(b) The two Treaties of 1868	533
(c) Costa Rican's written submissions to President Cleveland	535
(d) The Alexander Award of 1897	536
4. "Comercio" as understood in 1858 meant trade in goods	539
(a) Contemporaneous dictionary definitions	540
(b) Contemporaneous usages	541
(c) The full text of Article VI makes clear that "comercio" means trade in goods	544
(d) The nineteenth-century treaties and documents cited by Costa Rica in the Reply	547
Section II. The Treaty does not empower Costa Rica to perform passenger or other services, nor does it have an evolutionary character	551
A. The evidence concerning passenger traffic	551
B. The Parties did not give the 1858 Treaty an evolutionary character	555
CHAPTER IV. THE REASONABLENESS OF NICARAGUA'S REGULATION OF NAVIGATION ON THE SAN JUAN RIVER	558
Section I. Costa Rica's navigation on the river is subject to reasonable regu- lation by Nicaragua	559
Section II. The evidence regarding Costa Rica's exercise of her right of navi- gation "con objetos de comercio", and Nicaragua's non-interfer- ence with that right	560
Section III. The reasonableness of Nicaragua's regulations and the important interests that they serve	578
A. Environmental protection	578
1. Protected areas	579
(a) The Indio Mafz Biological Reserve and San Juan River Wildlife Refuge	581
(b) The San Juan River — Nicaragua Biosphere Reserve	585
2. Regional and international environmental commitments	586
3. Management and protection of the Reserves	588
4. Illegal logging	590
5. Illegal hunting and fishing	593

	<i>Page</i>
6. Illegal occupation of protected land	595
7. Nicaragua's regulations are necessary to protect the environment	596
(a) The requirement to stop and register	596
(b) The requirement to obtain a departure clearance certificate	597
(c) The prohibition of navigation at night	598
(d) The prohibition of certain fishing activities	599
B. Control and prevention of crime	601
1. The requirement to stop and register	602
2. The requirement to obtain a departure clearance certificate	603
3. The prohibition of navigation at night	605
C. Navigational safety	606
1. The requirement to stop and register	606
2. The requirement to obtain a departure clearance certificate	607
3. The prohibition of navigation at night	608
D. Border protection and security	610
1. Immigration controls	610
2. The requirement to fly the Nicaraguan flag	614
Conclusion	617
CHAPTER V. COSTA RICA'S ALLEGED RIGHTS OF PROTECTION, CUSTODY AND DEFENCE OF THE SAN JUAN RIVER	619
Introduction	619
Section I. The scope of Costa Rica's alleged rights	620
A. Costa Rica's alleged rights have no basis in what she characterizes as the "applicable law"	620
1. Article IV of the Treaty of Limits	621
2. Article VI of the Treaty of Limits	624
3. Other documents invoked by Costa Rica	627
B. Costa Rica's response to the analysis in the Counter-Memorial is no answer to Nicaragua's arguments.	628
Section II. Evidence of the Parties' subsequent practice	644
A. The Soto-Carazo Treaty of 26 July 1887.	645
B. Costa Rican public vessels have never attempted to protect navigation "con objetos de comercio" or had the need to do so	650
C. Supplying and bringing replacement personnel to police posts	659
1. Costa Rica's evidence regarding the supply of border posts	660
2. Costa Rica's change in policy in May-July 1998, and Nicaragua's response	664
3. Diplomatic efforts to restore the <i>status quo ante</i>	673
4. The practice prior to the 1990s	679
D. Conducting law enforcement activities	682
E. Providing social services to riparian communities	687
Conclusion	690
CHAPTER VI. REMEDIES	696
Section I. The "declarations" requested by the Parties	696
Section II. Costa Rica's further contentions regarding remedies	705
A. The issue of diplomatic protection	706

1. Absence of relation with the Application	706
2. Non-exhaustion of domestic remedies	710
B. Assurances and guarantees of non-repetition	713
C. Compensation	717
SUBMISSIONS	725
APPENDIX	726
Section I. The San Juan River	726
Section II. The matter of Nicoya	730
A. The Costa Rican Constitutions of 1825 and 1841	734
B. Negotiations for the inter-oceanic canal	736
Section III. Costa Rican navigation on the San Juan River as of 1888	737
Conclusion	740

NAVIGATIONAL AND RELATED RIGHTS
DISPUTE CONCERNING

COSTA RICA VS. NICARAGUA

REPLY OF COSTA RICA

RÉPLIQUE DU COSTA RICA



VOLUME 3
(Annexes)

1982

**DISPUTE CONCERNING
NAVIGATIONAL AND RELATED RIGHTS**

COSTA RICA v. NICARAGUA

REPLY OF COSTA RICA



**VOLUME 2
(Annexes)**

15 January 2008

Annex 1

**ROYAL CHARTER OF THE KING OF SPAIN TO DIEGO LÓPEZ,
10 FEBRUARY 1576**

**SOURCE: ARCHIVO DE INDIAS, COLECCIÓN DE DOCUMENTOS
INÉDITOS RELATIVOS AL DESCUBRIMIENTO, CONQUISTA
Y ORGANIZACIÓN DE LAS ANTIGUAS POSESIONES ESPAÑOLAS
DE AMÉRICA Y OCEANÍA, SACADAS DE LOS ARCHIVOS
DEL REYNO Y MUY ESPECIALMENTE DEL DE INDIAS
(MADRID: IMPRENTA DE JOSÉ MARÍA PÉREZ,
MISERICORDIA, 2, 1870), PP. 528-537.
ENGLISH TRANSLATION BY COSTA RICA**

TRANSLATION

**Royal Charter adjoining an Agreement for the Population of the Province
of Latuzgalpa or Nueva Cartago undertaken by Captain Diego Lopez
(Year of 1576)**

10 February 1576

...

"THE KING, ...

The President and Judges of our Royal Audience who reside in the City of Santiago of the Province of Guatemala, on behalf of Captain Diego Lopez Cezino of the city of Truxillo of the Province of Honduras, have informed us that it is convenient and very necessary to the service of God Our Lord as well as ours, that the Province of Lataguzgalpa, known as Nueva Cartago, be conquered and settled by Spaniards...

...

Therefore, in compliance with the aforementioned Royal Charter and Commission, herewith incorporated, and in regards to His Majesty's service, being present Captain Diego Lopez, resident of the city of Truxillo of the Province of Honduras, and being present in this Court, to whom I, the Secretary, give testimony of knowing him, said that they would make and in effect made the following Capitulations:

...

Firstly. His Majesty will appoint him his Governor and Captain-General of the said Province, which is the whole land included from the mouth of El Desaguadero to the north up to Cape Camaron, in the same direction where the Province of Honduras begins, with all the inland territory included therein, until reaching the boundary and jurisdiction of the Province of Nicaragua and Nueva Segovia, and what is that of Honduras; and the said Captain Diego Lopez shall have the said Governorship during his lifetime, with the salary of two thousand ducats, to be paid from the Treasury or revenues belonging to his Majesty in the said Province, but if no such funds should exist, His Majesty shall not be bound to pay anything on account of that salary; and after the death of said Diego Lopez, his eldest son or son-in-law, as his heir, shall succeed him in this grant, provided that he is a person having the necessary qualifications and being His Majesty duly served."

...

Annex 2

**RESOLUTION BY THE ROYAL AUDIENCIA OF GUATEMALA
REGARDING THE ELECTION OF MEMBERS OF THE SPANISH
CORTES FOR COSTA RICA AND NICOYA, 3 MAY 1813**

**SOURCE: P. PÉREZ ZELEDÓN, *REPLY TO THE ARGUMENT
OF NICARAGUA ON THE QUESTION OF THE VALIDITY
OR NULLITY OF THE TREATY OF LIMITS OF APRIL 15, 1858*
(WASHINGTON: GIBSON BROS., 1887), PP. 103-104**

REPLY

TO THE

ARGUMENT OF NICARAGUA

ON THE

QUESTION OF THE VALIDITY OR NULLITY OF THE
TREATY OF LIMITS OF APRIL 15, 1858,

TO BE DECIDED BY

The President of the United States of America.

AS ARBITRATOR.

FILED ON BEHALF OF THE GOVERNMENT OF COSTA RICA

BY

PEDRO PÉREZ ZELEDÓN,

ITS ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY
IN THE UNITED STATES.

(TRANSLATED INTO ENGLISH BY J. I. RODRIGUEZ.)

WASHINGTON:

GIBSON BROS., PRINTERS AND BOOKBINDERS.

1887.

No. 2.

The President of the Royal Audiencia of Guatemala transmits to the Governor, and to the most Noble Corporation of the city of Cartago, a resolution, by which the election of members of the Spanish Cortes for Costa Rica and Nicoya was ordered to be made at that city.—It appears from this document that the District of Nicoya had actually been annexed to Costa Rica ever since May, 1813, about EIGHT YEARS before the independence from the mother country.

A preparatory meeting having been held, the following resolution was passed:

Whereas, upon the reading of the official letter addressed to His Excellency the President by the Most Noble Corporation of the city of Cartago, it appears that the population of Costa Rica is alleged to be only 41,000 inhabitants, EVEN INCLUDING THE DISTRICT OF NICOYA, WHICH HAS BEEN ANNEXED TO COSTA RICA, which is less than the total which the Constitution requires, and that for this reason the said Governor and Council request that for the purposes of electing two members of Congress the said Province of Costa Rica should be united to the one of Leon, of Nicaragua, or that the districts of Masaya and Nicaragua (Rivas) should be incorporated into her ;

And whereas the Most Noble Council of the city of Leon reported adversely, on the grounds that the purposes had in view by Cartago were simply to alleviate the burden of taxes weighing upon it, and cause some other districts belonging to Nicaragua to share that burden, and that the present member of Congress for the said Province Don Florentino Castillo, had stated in an official letter addressed by him to His Excellency the President on June 8, 1812, that the same Council of the city of Cartago in its instructions to him had admitted the fact that the population of Costa Rica was about 70,000 inhabitants, and that even subtracting the natives of Africa, fortunately very

few there, there would still remain about sixty thousand people of the other classes.

And whereas the said Most Noble Council of the city of Leon further represented that in case that the population of Costa Rica was not large enough, the District of Nicoya, which was bordering upon her, might be attached to her ;

And whereas due consideration has been taken of ALL THE OTHER REASONS AND GROUNDS UPON WHICH IT WAS ORDERED THAT THE SAID DISTRICT OF NICOYA, UNITED TO COSTA RICA, SHOULD ELECT IN THE LATTER ONE MEMBER OF CONGRESS TO REPRESENT IN THE CORTES THE TWO LOCALITIES, AND PROMOTE THERE THE WELFARE OF THEIR WORTHY INHABITANTS ;

And whereas no exact census has been made, showing any error in the approximate calculation made by this Assembly (Junta) upon the data and information on record ;

And whereas the resolution which ordered that the election for one Member of Congress should take place at the capital of Costa Rica has proved beneficial to that Province, worthy to a great degree of the attentions of the government, and frees her people from the troubles and expense of a trip to Leon, many leagues distant, for the purposes of the said election,

Ordered, That the decision of this Board (Junta) be carried out, and that in consequence thereof the elections for Member of Congress be made under and according to the instructions enacted by this Board."

And this I communicate to you for your knowledge, and for such compliance therewith as may be incumbent upon you.

May God preserve you many years.

Guatemala, May 3, 1813.

BUSTAMANTE.

*To the Governor and the Most Noble Council
of the City of Cartago.*

Annex 3

MASAYA TREATY, 26 APRIL 1823

SOURCE: *OBRAS HISTÓRICAS COMPLETAS DEL LICENCIADO
JERÓNIMO PÉREZ, IMPRESAS POR DISPOSICIÓN
DEL EXCELENTÍSIMO SR. PRESIDENTE DE LA REPÚBLICA
DON ADOLFO DIAZ BAJO LA DIRECCIÓN Y CON NOTAS
DEL DOCTOR PEDRO JOAQUÍN CHAMORRO
(MANAGUA: IMPRENTA Y ENCUADERNACIÓN
NACIONAL, 1928), PP. 465-467.*
ENGLISH TRANSLATION BY COSTA RICA

TRANSLATION**MASAYA TREATY****April 26, 1823**

"In the General Headquarters of Masaya, on April 26, 1823, citizen Cleto Ordóñez, General of the Protective Army, and the Representatives of the Governmental Council of León, citizens Juan Hernández, Vocal of that Council, Juan de Dios Orozco, and Father Dionisio Urcuyo y Crespín, have solemnly gathered here to draw up the treaties for the mutual union, peace, and mutual tranquility of both governments, after a long and well-meditated discussion, have agreed on the following items:

1. The hostilities are hereby terminated, and the cantonments are removed from the towns of Managua and Masaya, leaving only in each Government the troops they deem necessary to preserve law and order and protect their people against foreign enemies, the provision of which should be done at the prudent discretion of their respective chiefs.
2. The peoples of both Governments are free to establish mutual communication, as well as commercial and friendly relations, all of which should be conducted in a harmonious manner.
3. Prisoners of War held by both Governments are hereby released, and are free to go to any destination they please.
4. This Government will appoint its Representatives, who will form the General Congress of the Province, when the time is right.
5. After the Representatives of the guest Provinces meet, they will designate the place for their residence.
6. The peoples are free to adhere to one Government or the other, without being required or forced in any way to pledge obedience.
7. Both Governments promise each other not to enter into any hostilities, but rather to keep the closest and most eternal harmony. They are both responsible for supervising the observance of this article.
8. Both Governments shall assist each other to preserve their total independence from any Government.

After the treaties were drawn up and settled according to the instructions of our mission, the General proposed the following:

(1) Whenever it is provisionally decided by the Government of Leon that the Military governing body in all of its parts resides in Granada, for its topographical location, its armed forces, and the merits earned in the present times, Granada shall agree to have the political and economic Government reside in Leon.

(2) The Very Excellent Council, at its wise and prudent discretion, shall replace the employees that have been classified as suspicious individuals that oppose our system, who progressed by favour and not by merit during the former Government, by worthy persons, because this way we will achieve the stability and organization of our Government.

(3) In case the Very Excellent Council does not reach an agreement on the first article, both Governments shall remain temporarily divided until there is a resolution from the Congress, without entering into any hostilities for this reason.

By which this minute is finished, and the treaties herein have been drawn up and settled, one copy of this minute will go to the General and another one will go to the Representatives or Commissioners of the Very Excellent Council, for the purposes they find convenient, which have been solemnly signed by them. This minute is authorised and corrected by the Secretary of the Office.- José Cleto Ordóñez - Juan Hernández - Juan de Dios Orozco - Dionisio Urcuyo y Crespin. In witness whereof, before me, Cipriano Mena.

Provisory Governmental Council of Leon, Nicaragua, April 28, 1823. The 8 articles included in the main treaty are ratified, as well as the third article added by the Chief of the Army of Granada. The troops shall evacuate the cantonments of Masaya and Managua, within eight days after receiving this ratification. - Solís, Salazar, Quiñonez, Carrillo, José Valentín Fernández Gallejos. - Manuel Barberena, Secretary."

Annex 4**DECREE OF THE CENTRAL AMERICAN FEDERATION
CONGRESS REGARDING AN INTEROCEANIC CANAL
THROUGH NICARAGUA, GUATEMALA, 16 JUNE 1825**

**SOURCE: COMPILACIÓN DE LEYES NO INSERTAS
EN LAS COLECCIONES OFICIALES, FORMADA
POR EL LIC. DON CLETO GONZÁLEZ VÍQUEZ,
TOMO 1 (SAN JOSÉ), PP. 411-413.
ENGLISH TRANSLATION BY COSTA RICA**

TRANSLATION

Decree of the Central American Federation Congress regarding an Inter Oceanic Canal through Nicaragua, Guatemala, 16 June 1825

...
"That several foreign trade houses and companies have made different proposals to the Supreme Government with the purpose of opening a navigational channel between both the Pacific and Atlantic oceans..."

...
Article 4: "The Government shall also contribute to its fastest and easiest execution, allowing the felling of the woods necessary for the task; facilitating the surveys, levelling and other operations that should be practiced; clearing the plans and maps relating to this purpose; and cooperating for its achievement through any means that are not opposed to the justice nor the general interest, or that particular of the citizens."

...
TOMOT
BIBLIOTECA NACIONAL
COSTA RICA



COMPILACION DE LEYES

NO INSERTAS EN LAS

COLECCIONES OFICIALES

FORMADA POR EL

LIC. DON CLETO GONZALEZ VIQUEZ

TOMO I



BIBLIOTECA ASAMBLEA LEGISLATIVA

(CANAL DE NICARAGUA)**El Presidente de la República de Centro América**

Por cuanto el Congreso decreta y el Senado sanciona lo que sigue:

El Congreso Federal de la República de Centro América, teniendo en consideración: Que por varias casas y compañías de comercio extranjeras, se han hecho diferentes propuestas al Gobierno Supremo con el objeto de abrir un canal de navegación entre los dos mares Pacífico y Atlántico, en el Estado de Nicaragua: Que este punto, así por su posición central, en medio de ambas Américas, y por la corta distancia que separa allí los dos océanos, como por las circunstancias del terreno y ventajas del clima, ofrece las aptitudes más útiles para la ejecución del proyecto; que su feliz resultado sería un origen fecundo de bienes para todas las naciones; y que la nuestra, a cuyo provecho y beneficio inmediato parece que quiso destinarlo la naturaleza, se elevaría por este medio al más alto grado de riqueza y prosperidad; considerando en fin que una obra tan importante merece la eficaz protección del Gobierno, decreta:

Artículo 1º—Se abrirá un canal en el Estado de Nicaragua para la navegación de buques del mayor corte posible.

Artículo 2º—Las obras necesarias al intento, serán de sólida construcción.

Artículo 3º—El Gobierno ofrecerá a los empresarios una indemnización, correspondiente al costo que tuviere la abertura del canal y a las dificultades que hayan de vencerse para realizarla.

Artículo 4º—El Gobierno deberá también contribuir a su más pronta y fácil ejecución: permitiendo el corte de maderas necesarias para la obra; auxiliando los

reconocimientos, nivelaciones y demás operaciones que hayan de practicarse; haciendo franquear los planos y mapas relativos al objeto; y cooperando a su logro por todos los medios que no se opongan a la justicia ni al interés general, o al particular de los ciudadanos.

Artículo 5º—Será libre de todo derecho la introducción de máquinas e instrumentos precisos para la obra del canal.

Artículo 6º—Concluido éste y formada la liquidación de su costo, que será reconocido como deuda pública, se destinarán sus productos a la amortización del capital invertido en su abertura y pago de los intereses; abonándose primero los gastos que exija la reparación de las obras del mismo canal, el costo de la recaudación y de la guarnición necesaria para su defensa.

Artículo 7º—Si se suscitase disputa en la liquidación, o duda en sus comprobantes, será determinada con arreglo a la Constitución de la República.

Artículo 8º—Se reserva el Congreso la facultad de imponer y alterar los derechos o contribuciones, que hayan de satisfacerse por la navegación o tránsito del canal.

Artículo 9º—Esta navegación o tránsito será común a todas las naciones amigas y neutrales, sin privilegio ni exclusión alguna.

Artículo 10.—El Gobierno mantendrá en el lago los buques de guerra, que juzgue necesarios para la seguridad y defensa del canal.

Artículo 11.—Si por invencibles obstáculos no se pudiere verificar el proyecto, la República no será responsable a indemnización de ninguna especie.

Artículo 12.—En el caso de que solamente pueda abrirse un canal para facilitar un comercio de trasbordo, las indemnizaciones serán proporcionadas a la menor utilidad que entonces reportaría la República.

Comuníquese al Senado para su sanción—Dado

en Guatemala a 16 de junio de 1825.—José Maria de Castilla, Diputado Presidente.—José Francisco de Córdoba, Diputado Secretario.—José Domingo Diéguez, Diputado Secretario.—Al Senado.

Sala del Senado.—Guatemala. 11 de julio de 1825. Al Poder Ejecutivo.—Beltranena.—Alvarado.—Hernández.—Menéndez.—Alcayaga.—Zelaya.—Méndez.—Manuel Julián Ibarra.

Por tanto: Ejecútese.—Palacio Nacional de Guatemala. 12 de julio de 1825.—Manuel José Arce.—Al Secretario de Estado y del Despacho de Relaciones.

Annex 5

DECREE OF THE FEDERAL CONGRESS OF CENTRAL
AMERICA IN 1825, APPROVING THE ANNEXATION
OF NICOYA TO COSTA RICA, 9 DECEMBER 1825

SOURCE: P. PÉREZ ZELEDÓN, *ARGUMENT ON THE
QUESTION OF THE VALIDITY OF THE TREATY OF LIMITS
BETWEEN COSTA RICA AND NICARAGUA*
(WASHINGTON: GIBSON BROS., 1887), P. 192

ARGUMENT

ON THE QUESTION OF THE VALIDITY OF
THE TREATY OF LIMITS BETWEEN
COSTA RICA AND NICARAGUA

AND

OTHER SUPPLEMENTARY POINTS CONNECTED WITH IT,

SUBMITTED TO THE

Arbitration of the President of the United States of America,

FILED ON BEHALF OF THE GOVERNMENT OF COSTA RICA

BY

PEDRO PÉREZ ZELEDÓN,

ITS ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY
IN THE UNITED STATES.

(TRANSLATED INTO ENGLISH BY J. I. RODRIGUEZ.)

WASHINGTON:
GIBSON BROS., PRINTERS AND BOOKBINDERS.
1887.

No. 2.

*Decree of the Federal Congress of Central America in 1825,
approving the annexation of Nicoya to Costa Rica.*

The Federal Congress of the Republic of Central America, taking into consideration, firstly, the reiterated petitions of the authorities and municipal bodies of the towns of the district of Nicoya, asking for their separation from Nicaragua and their annexation to Costa Rica; and secondly, that the said towns and people actually annexed themselves to Costa Rica at the time in which the political troubles of Nicaragua took place; and thirdly, the topographical situation of the same district, has been pleased to decree, and does hereby DECREE:

ART. 1. For the time being, and until the demarcation of the territory of each State provided by Art. VII of the Constitution is made, the district of Nicoya shall continue to be separated from Nicaragua and annexed to Costa Rica.

ART. 2. In consequence thereof, the district of Nicoya shall recognize its dependence upon the authorities of Costa Rica, and shall have, in the Legislature of the latter, such representation as corresponds to it.

ART. 3. This decree shall be communicated to the Assemblies of Nicaragua and Costa Rica.

Let it pass to the Senate.

Given at Guatemala December 9, 1825.

[From the "Reseña Histórica de Centro-América," by Lorenzo Montúfar, Guatemala, 1881, Vol. IV, p. 282.]

Annex 6

CONTRACT BETWEEN NICARAGUA AND THE AMERICAN
ATLANTIC AND PACIFIC SHIP-CANAL COMPANY
(ZEPEDA-JUAREZ-WHITE), LEÓN, ARTICLES 12, 14, 21
AND 37, 27 AUGUST 1849

SOURCE: COUNTER-MEMORIAL OF NICARAGUA, ANNEX 14.
ENGLISH TRANSLATION BY COSTA RICA

2

TRANSLATION**Contract Between Nicaragua and the American Atlantic and Pacific Ship-Canal Company (Zepeda-Juarez-White), León, 27 August 1849**

...

Article 12: "...the State, through the present, grants the Company the right to take and use the portions of the empty lots that it may need for establishing or building houses, warehouses, dikes, docks, stations or any other useful objects that may have relation with the canal works"

...

Article 14: "All the articles that the Company may need, for the surveys, exploration and construction, as well as for the use of the canal works such as machinery, instruments, tools, etc. and any other materials needed...But the Company will not have the right to introduce within the State's territory any goods, merchandise or any other articles to sell or trade without paying the taxes established by law, and likewise, it is forbidden to import any articles or materials which may be the State's monopoly or forbidden by the State..."

...

Article 21: "By the present, the State stipulates that all the Company's vessels and steamers, as well as the goods, merchandise, manufactured articles or any other property..."

...

Article 37: "It is finally stipulated that this contract, as well as the rights and privileges it confers, will be considered as inalienable by the individuals that comprise the Company mentioned herewith and their partners, and that at no time shall they be transferred or assigned wholly or in part to any other Company, and in no way depend or be connected to any, whatever might be their purposes."

...

Annex 7

UNITED STATES-NICARAGUA, GENERAL TREATY OF AMITY,
NAVIGATION, AND COMMERCE (SQUIER-ZEPEDA), LEÓN,
ARTICLES IV, V, VI, VII, VIII, XXVI, XXXIII, XXXIV, XXXV,
3 SEPTEMBER 1849

SOURCE: C. L. WIKTOR, *UNPERFECTED TREATIES
OF THE UNITED STATES OF AMERICA 1776-1976, VOL. 1,
1776-1855* (NEW YORK: OCEANA PUBLICATIONS, 1976),
PP. 279-280, 282-284, 294, 297-300

UNPERFECTED TREATIES
OF THE
UNITED STATES OF AMERICA

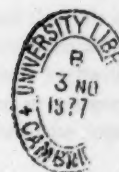
1776-1976

EDITED AND ANNOTATED BY

CHRISTIAN L. WIKTOR

VOLUME 1

1776-1855



1976 — OCEANA PUBLICATIONS, INC. — DOBBS FERRY, NEW YORK

NICARAGUA

AMITY, NAVIGATION, AND COMMERCE

Treaty signed at León September 3, 1849

Submitted to the Senate March 25, 1850

No final action by the Senate

Treaty file: Unperfected Treaty Series U-2

Printed text: S. Conf. Ex. 6, 31st Cong., 1st sess.; 40 *British and Foreign State Papers* 1052-1064

Note: The Squier-Zepeda Treaty, as it is also known, was negotiated and signed by Ephraim George Squier, U.S. Chargé d'Affaires in Guatemala, and Hermenegildo Zepeda. It was ratified by Nicaragua prior to October 10, 1849. There was no final action taken by the U.S. Senate, and it was replaced by the treaty of February 14, 1854, unperfected (UTS S-10) (5 Miller 573; Patterson). See also correspondence between the Secretary of State, John M. Clayton, and Eduard Carcache, Nicaraguan Chargé d'Affaires at Washington, in Manning, 3 *Inter-American Affairs* 57-59. The original treaty, in English and Spanish, is in the treaty file. The Senate print can be found in 24 *Regular Confidential Documents* 483, and subsequent volumes 26 and 27; with a copy in the Senate Records SEN 31B-B5. The present text is reprinted from a Senate print.

**A GENERAL TREATY OF AMITY, NAVIGATION, AND COMMERCE, BETWEEN
THE UNITED STATES OF NORTH AMERICA AND THE REPUBLIC OF
NICARAGUA, CONCLUDED AT THE CITY OF LEON, THE THIRD DAY OF
SEPTEMBER, ONE THOUSAND EIGHT HUNDRED AND FORTY-NINE.**

A general treaty of amity, navigation, and commerce, between the United States of North America and the republic of Nicaragua.

Tratado general de amistad, navegacion, y comercio entre la republica de Nicaragua y los Estados Unidos de Norte America.

The United States of North America and the republic of Nicaragua, desiring to make lasting and firm the friendship and good understanding which happily exist between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between each other, by means of a treaty, or general convention of peace and friendship, commerce and navigation.

For this desirable object, the President of the United States of America has conferred full powers on E. G. Squier, a citizen of the said State and their chargé d'affaires to Guatemala and Central America; and the President of the republic of Nicaragua has conferred similar and equal powers upon Licenciado Señor Don Hermenegildo Zepeda; who, after having exchanged their said full powers in due form, have agreed to the following articles:

La republica de Nicaragua y los Estados Unidos del Norte America, deseando hacer firme y duradera la amistad y buena inteligencia que felizmente existen entre ambas naciones, han resuelto fijar de una manera clara, distinta, y positiva, las reglas que en lo futuro han de observarse religiosamente entre una y otra por medio de un tratado ó convencion general de paz y amistad, comercio y navegacion.

Para este apetecible objeto el Presidente de la replica de Nicaragua ha conferido plenos poderes al Señor Licenciado Don Hermenegildo Zepeda, y el Presidente de los Estados Unidos de America ha conferido semejantes ó iguales poderes a E. G. Squier, ciudadano de dichos Estados y su encargado de negocios en Guatemala y Centro-America; los cuales despues de haber cangeado sus dichos plenos poderes en debida forma, han convenido en los artículos siguientes:

merce, and manufactures, which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

ARTICLE IV.

They likewise agree, that whatever kind of produce, manufacture, or merchandise of any foreign country can be, from time to time, lawfully imported into the United States in their own vessels, may also be imported in vessels of the republic of Nicaragua; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other: and, in like manner, that whatever kind of produce, manufactures, or merchandise of any foreign country can be, from time to time, lawfully imported into the republic of Nicaragua in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected, whether the importation be made in vessels of the one country or the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-ex-

cion, comercio y fabrica de que gozan ó gozaren las ciudadanos naturales sometiendo á las leyes, decretos y usos establecidos á que están sujetos dichos ciudadanos. Pero debe entenderse que este artículo no comprende el comercio de cabotaje de cada uno de los países, cuya regulacion queda reservada á las partes respectivamente, segun sus leyes propias y peculiares.

ARTICULO IV.

Igualmente conviene una y otra en que cualquiera especie de producciones, manufacturas ó mercaderías extranjeras que puedan ser en cualquier tiempo legalmente importadas en la republica de Nicaragua en sus propios buques, puedan ser tambien importadas en buques de los Estados Unidos; y que no se impondrán ó cobrarán otros, ó mas altos derechos sobre las toneladas del buque, ó por su cargamento, sea que la importacion se haga en buques del uno ó del otro país: y de la misma manera, cualquiera especie de producciones, manufacturas ó mercaderías extranjeras que puedan ser en cualquier tiempo legalmente importadas en los Estados Unidos en sus propios buques, puedan ser tambien importadas en los buques de la republica de Nicaragua; y que no se impondrán otros, ó mas altos derechos sobre las toneladas del buque ó por su cargamento, sea que la importacion se haga en buques del uno ó del otro país.

Conviene ademas, en que todo de que pueda ser legalmente exportado ó reexportado de uno de los dos países en sus propios buques para un país extranjero, pueda de la misma manera ser exportado ó reexportado en los buques del otro: y serán concedido y cobrados iguales premios, derechos, y descuentos, sea que tal exportacion ó reexportacion

portation be made in vessels of the United States or of the republic of Nicaragua.

se haga en los buques de la republica de Nicaragua, ó en los de los Estados Unidos.

ARTICLE V.

No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufacture of the republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the republic of Nicaragua of any articles the produce or manufactures of the United States, than are or shall be payable on the like articles being the produce or manufactures of any other foreign country; nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any articles to the United States, or to the republic of Nicaragua, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufactures of the United States, or of the republic of Nicaragua, to or from the territories of the United States, or to or from the territories of the republic of Nicaragua, which shall not equally extend to all other nations.

ARTICULO V.

No se impondran otros ó mas altos derechos sobre la importacion en la republica de Nicaragua de cualquiera articulos del producto natural ó manufacturado de los Estados Unidos, y no se impondrá otros ó mas altos derechos sobre la importacion en los Estados Unidos de cualesquiera articulos del producto natural ó manufacturado de la republica de Nicaragua, que los que se exijan ó exijieren por iguales articulos del producto natural o manufacturado de cualquiera otro pais extranjero; ni se impondrán otros ó mas altos derechos ó gravámenes en ninguno de los dos paises sobre la esportacion de cualesquiera articulos para la republica de Nicaragua, ó para los Estados Unidos respectivamente, que los que deban exijirse por la esportacion de iguales articulos para cualquiera otro pais extranjero; ni se establecera prohibicion alguna respecto a la importacion á exportacion de cualesquiera articulos del producto natural ó manufacturado de los territorios de la republica de Nicaragua para los de los Estados Unidos, ó de los territorios de los Estados Unidos para los de la republica de Nicaragua, que no sea igualmente estension á las otras naciones.

ARTICLE VI.

In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the three preceding articles are, to their full extent, applicable to the vessels of the United States and their cargoes arriving in the ports of Nicaragua, and reciprocally.

ARTICULO VI.

Afin de remover la posibilidad de cualquiera mala inteligencia con respecto á los tres articulos anteriores se declara aqui: que las estipulaciones contenidas en ellos son aplicables en toda su estension á los buques de Nicaragua y sus cargamentos que arriben á los puertos de

cally to the vessels of the said republic of Nicaragua and their cargoes arriving in the ports of the United States, whether they proceed from the ports of the country to which they respectively belong or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on said vessels or their cargoes, whether the same shall be of native or foreign produce or manufacture.

ARTICLE VII.

It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandise, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as citizens of the country in which they reside, or at least to be placed on an equality with the subjects or citizens of the most favored nation.

ARTICLE VIII.

The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects, for any military expedition, nor for any public or private purpose whatever, without allowing to those interested an equitable and sufficient indemnification.

los Estados Unidos, y recíprocamente á los buques de los Estados Unidos y sus cargamentos que arriben á los puertos de Nicaragua; sea que procedan de los puertos del país á que ellos pertenezcan respectivamente ó de los de cualquiera otro país extranjero; y que en ningún caso de impondrá o cobrará derecho alguno diferencial en los puertos de los dos países sobre los dichos buques ó sus cargamentos ya sean estos del producto ó manufactura nacional ó del producto ó manufactura extranjero.

ARTÍCULO VII.

Se conviene además, que será enteramente libre á los comerciantes, capitanes de buques y otros ciudadanos de ambos países manejar á su voluntad sus negocios por sí mismos, ó por medio de sus agentes, en todos los puertos y lugares sujetos á la jurisdicción del uno ó del otro, tanto con respecto á las consignaciones y ventas por mayor ó menor de sus efectos y mercaderías, como con respecto á la carga, descarga y despacho de sus buques, ó otros negocios, debiendo en todos estos casos ser tratados como ciudadanos del país en que residan o considerados al menos bajo igual pie que los súbditos ó ciudadanos de la nación mas favorecida.

ARTÍCULO VIII.

Los ciudadanos de una y otra de las partes contratantes no podrán ser embargados ó detenidos con sus embarcaciones, tripulaciones, mercaderías y efectos comerciales de su pertenencia, para ninguna expedición militar, ni para usos públicos ó particulares, cualesquiera que sean, sin conceder á los interesados una justa y suficiente indemnización.

against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives upon which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

ARTICLE XXV.

For the purpose of lessening the evils of war, the two high contracting parties further agree, that in case a war should unfortunately take place between them, hostilities shall only be carried on by persons duly commissioned by the government, and by those under their orders, except in repelling an attack or invasion, and in the defence of property.

ARTICLE XXVI.

Whenever one of the contracting parties shall be engaged in war with another state, no citizen of the other contracting party shall accept a commission or letter marque for the purpose of assisting or co-operating hostilely with the said enemy against the said parties so at war, under the pain of being treated as a pirate.

ARTICLE XXVII.

If by any fatality (which cannot be expected, and God forbid) the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and

ninguna sentencia contra alguna buque, ó efectos ó propiedad reclamada por los ciudadanos de la otra, la sentencia ó decreto hará mención de las razones ó motivos en que aquella se huiere fundado, y se fraudará sin retardo alguno al comandante ó agente de dicho buque, si lo solicitare, un testimonio autentico de la sentencia ó decreto, ó de todo el proceso, satisfaciendo por el los derechos legales.

ARTICULO XXV.

Con el fin de disminuir los males de la guerra, las dos altas partes contratantes convienen ademas: que en caso de suscitarse desgraciadamente una guerra entre ellas, solo se llevarán á efecto las hostilidades por aquellas personas debidamente autorizadas por el gobierno, y por las que están bajo sus ordenes, exceptuados los casos de repeler un ataque ó invasion, y en la defenza de la propiedad.

ARTICULO XXVI.

Siempre que una de las partes contratantes estuviere empeñada en guerra con otro estado, ningún ciudadano de la otra parte contratante aceptará comision ó patente de corso para el objeto de auxiliar ó cooperar hostilmente con el dicho enemigo contra la mencionada parte que este en guerra, bajo la pena de ser tratado como pirata.

ARTICULO XXVII.

Si por alguna fatalidad, que no puedo esperarse, y que Dios no permita, las dos partes contratantes se viesen empeñadas en guerra una con otra, han convenido y convienen desde ahora para entonces, que se concederá el termino de seis meses á los comerciantes residentes en las costas, y en los puertos de entram-

which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being in everything besides subject to the laws of the respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

piedad, y á las cuales están sujetos los ciudadanos y habitantes naturales y extranjeros en el país en que residen, quedando en todo lo demás sometidos á las leyes de los respectivos estados. Los archivos y papeles de los consulados serán respetados inviolablemente, y bajo ningún pretexto los ocupará magistrado alguno, ni tendrá en ellos ninguna intervención.

ARTICLE XXXIII.

The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand, in writing, the said deserters, proving by an exhibition of the registers of the vessels, or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved by other testimonies,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

ARTICULO XXXIII.

Los dichos consules tendrán facultad para requerir el auxilio de las autoridades locales para la prision, detencion, y custodia de los desertores de buques, publicos y particulares, de su respectivo país; y con este objeto se dirijirán á los tribunales, jueces y empleados competentes, y reclamarán por escrito los dichos desertores, probando con la presentacion de los registros de los buques del rol de la tripulacion y de otros documentos publicos que aquellos hombres hacian parte de las dichas tripulaciones: y á virtud de esta demanda asi probada, (exceptuando no obstante el caso en que se probare por otros testimonios lo contrario) no se rehusará la entrega. Aprehendidos dichos desertores, serán puestos á disposicion de los mencionados consules, y podrán ser depositados en las carceles publicas á solicitud y á espensas de los que los reclamen para ser enviados á los buques á que correspondian ó á otros de la misma nacion. Pero sino fueren remitidos dentro de dos meses, contados desde el día de su arresto, serán puestos en libertad, y no volverán á ser presos por la misma causa.

ARTICLE XXXIV.

For the purpose of more effectually protecting their commerce and navigation, the two contracting par-

ARTICULO XXXIV.

Con el objeto de proteger mas eficazmente su comercio y navegacion, las dos partes contratantes con-

ties do hereby agree to form, as soon hereafter as circumstances will permit, a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

vienen aqui en formar, luego que las circunstancias lo permitan, una convencion consular que declare mas especialmente las atribuciones ó inmunidades de los consules y vice-consules de las partes respectivas.

ARTICLE XXXV.

It is and has been stipulated by and between the high contracting parties:

1st. That the citizens, vessels, and merchandise of the United States shall enjoy in all the ports and harbors of Nicaragua, upon both oceans, a total exemption from all port charges, tonnage or anchorage duties, or any other similar charges now existing, or which may hereafter be established, in manner the same as if said ports had been declared free ports. And it is further stipulated, that the right of way or transit across the territories of Nicaragua, by any route or upon any mode of communication at present existing, or which may hereafter be constructed, shall at all times be open and free to the government and citizens of the United States for all lawful purposes whatever; and no tolls, duties, or charges of any kind shall be imposed upon the transit, in whole or part, by such modes of communication, of vessels of war or other property belonging to the government of the United States, or on public mails sent under the authority of the same, or upon persons in its employ, nor upon citizens of the United States, nor upon vessels belonging to them. And it is also stipulated, that all lawful produce, manufactures, merchandise, or other property belonging to citizens of the United States passing from one ocean to the other, in either direction, for the purpose of exportation to foreign countries, shall not be subject to

ARTICULO XXXV.

Se estipula y se ha estipulado entre las dos altas partes contratantes:

1º. Que los ciudadanos, buques y mercancías de los Estados Unidos, gozaran en todos puertos y abras de los mares de Nicaragua de total exclusion de carga, derechos de tonelaje, anclaje, y otras semejantes cargas que existan ó en adelante se establezcan, como si dichos puertos hubiesen sido declarados, y establecidos puertos libres. Y ademas de esto se estipula, que el derechos de transito por los territorios de Nicaragua por alguna ruta ó medios de comunicacion ahora existentes ó que se construyan en lo de adelante, estarán siempre abiertos y libres al gobierno y ciudadanos de los Estados Unidos para todo fin legal, y no se impondrán derechos algunos sobre el transito entero ó parcial de buques de guerra ú otra propiedad perteneciente á los Estados Unidos por dichos medios de comunicacion, ni tampoco sobre malas publicas enviadas bajo su autoridad ó sobre los empleados ó personas empleadas de dichos gobiernos, in sobre sus ciudadanos ó los buques que les pertenescan; y se estipula tambien que todo producto, manufacturas, mercancías ú otras propiedades de licito comercio, pertenecientes á ciudadanos de los Estados Unidos que pasen de un oceano al otro en ambas direcciones, con objeto de exportacion á paises estrangeros, no estarán sujetos á derechos de importacion ó exportacion; á que si ciudadanos de dichos estados habiendo

any import or export duties whatever; or if any citizens of the United States, having introduced such produce, manufactures, or merchandise into the State of Nicaragua, for sale or exchange, shall, within three years thereafter, determine to export the same, they shall be entitled to drawback equal to four-fifths of the amount of duties paid upon their importation.

2d. And inasmuch as a contract was entered into on the twenty-seventh day of August, 1849, between the republic of Nicaragua and a company of citizens of the United States, styled the "American Atlantic and Pacific Ship Canal Company," and in order to secure the construction and permanence of the great work thereby contemplated, both high contracting parties do severally and jointly agree to protect and defend the above-named company in the full and perfect enjoyment of said work, from its inception to its completion, and after its completion, from any acts of invasion, forfeiture, or violence, from whatsoever quarter the same may proceed: and, to give full effect to the stipulations here made, and to secure, for the benefit of mankind, the uninterrupted advantages of such communications from sea to sea, the United States distinctly recognises the rights of sovereignty and property which the State of Nicaragua possesses in and over the line of said canal, and for the same reason guarantees positively and efficaciously the entire neutrality of the same, so long as it shall remain under the control of citizens of the United States, and so long as the United States shall enjoy the privileges secured to them in the preceding section of this article.

3d. But if, by any contingency, the above-named "American Atlan-

introducido al estado de Nicaragua productos, manufacturas y mercancías con el objeto de venderlas ó cambiarlas, determinasen el exportarlas antes de la expiracion de tres años despues de su introduccion, serán acreedores á una rebaga de cuatro quintos del monto de los derechos pagados por su importacion.

2º. Y en cuanto á que se ha hecho un contrato el veintisiete de Agosto del corriente año entre la republica de Nicaragua y una compañía de ciudadanos de los Estados Unidos, titulada "Compañía Americana del Canal Marítimo Atlántico Pacífico," á fin de asegurar la construcción y permanencia de la grande obra de que en él se trata, ambas altas partes contratantes separada y juntamente convienen por el presente, en defender y proteger á la expresada compañía en el pleno y perfecto goze de dicha obra desde su principio hasta su conclusion, y despues de su conclusion, en defenderla y protegerla contra todo acto de invasion, confiscacion, ó violencia proceda este de donde procediere; y para que tengan cumplido efecto las estipulaciones aqui consignadas, uno tambien para asegurar en beneficio del genero humano las inmensas ventajas de una comunicacion inter-oceanica, los Estados Unidos reconoce distintamente los derechos de soberania y propiedad que el estado de Nicaragua poses sobre toda la linea de dicho canal, y por la misma razon garantiza positiva y eficazmente su entera neutralidad, mientras este bajo la direccion, ó administracion de ciudadanos de los Estados Unidos, y por todo el tiempo que los Estados Unidos disfruten de los privilegios que se les concede en la seccion precedente de este articulo.

3º. Pero si por alguna contingencia la susodicha "Compañía Ameri-

tic and Pacific Ship Canal Company" shall fail to comply with the terms of their contract with the State of Nicaragua, all the rights and privileges which said contract confers shall accrue to any company of citizens of the United States which shall, within one year after the official declaration of failure, undertake to comply with its provisions, so far as the same may at that time be applicable, provided the company thus assuming said contract shall first present to the President and Secretary of State of the United States satisfactory assurances of their intention and ability to comply with the same; of which satisfactory assurances the signature of the Secretary of State and the seal of the department shall be complete evidence.

4th. And it is also agreed, on the part of the republic of Nicaragua, that none of the rights, privileges, and immunities guaranteed, and by the preceding articles, but especially by the first section of this article, conceded to the United States and its citizens, shall accrue to any other nation or to its citizens, except such nation shall first enter into the same treaty stipulations for the defence and protection of the proposed great inter-oceanic canal which have been entered into by the United States, in terms the same with those embraced in section 2d of this article.

Article XXXVI.

The United States of North America and the republic of Nicaragua, desiring to make as durable as possible the relations which are to be established by virtue of this treaty, have declared solemnly, and do agree to, the following points:

1st. The present treaty, without prejudice to the provisions of section

cana del Canal Marítimo Atlántico Pacífico" falzase en cumplir se contrato con el estado de Nicaragua, todos los derechos y privilegios que dicho contrato confiere podrán pasar á cualquier compañía de ciudadanos de los Estados Unidos que dentro de un año despues de la declaracion oficial de quiebra, quiera tomar á su cargo cumplir con sus estipulaciones en cuanto estas puedan en este tiempo ser aplicables, con tal que la compañía que así se apropie de dicho contrato, presente primero al Presidente y Secretario de Estado de los Estados Unidos, seguridades satisfactorias de su intencion y capacidad de cumplir con el, de las cuales, serán suficientes pruebas la firma del Secretario de Estado, y el sello de su departamento.

4º. Y así mismo queda convenido por parte del estado de Nicaragua, que ninguno de los derechos, privilegios, é inmunidades garantizadas y concedidas por los precedentes artículos; pero especialmente por la primera seccion del presente, á los Estados Unidos, y á sus ciudadanos podrán pasar á ninguna otra nacion, ó á sus ciudadanos, sino es que esta primero entre en las mismas estipulaciones del tratado en que han convenido los Estados Unidos para la defenza y proteccion del proyectado gran canal interoceánico en los mismos terminos comprendidos en la seccion 2ª de este artículo.

Article XXXVI.

Los Estados Unidos de Norte America, y la republica de Nicaragua, desearde hacer tan duraderas cuanto sea posible las relaciones que han de establecerse en virtud del presente tratado, han declarado solemnemente, y convienen en los puntos siguientes:

1º. El presente tratado, y sin perjuicio de las estipulaciones de la

Annex 8

**UNITED STATES-GREAT BRITAIN, CONVENTION
CONCERNING A SHIP CANAL CONNECTING THE ATLANTIC
AND PACIFIC OCEANS (CLAYTON-BULWER), WASHINGTON,
PREAMBLE AND ARTICLES III, V AND VIII, 19 APRIL 1850
(IN FORCE 4 JULY 1850)**

**SPANISH VERSION: D. MANUEL M. DE PERALTA,
EL CANAL INTEROCEÁNICO DE NICARAGUA Y COSTA RICA
EN 1620 Y EN 1887 (BRUSELAS: IMPRENTA DE
AD. MERTENS, 1887), PP. 68-71.
ENGLISH VERSION: 104 CTS 41-46**

Convention for Facilitating and Protecting the
Construction of a Ship Canal between the
Atlantic and Pacific Oceans etc. between
Great Britain and the United States,
signed at Washington, 19 April 1850

THE text of this, the Clayton-Bulwer Treaty, is taken here from Miller, *Treaties and other International Acts of the United States*, vol. V, p. 671. The Treaty, which was terminated by that of 18 November 1901, is printed also in *Parliamentary Papers*, 1850, vol. LVI, p. 37; *British and Foreign State Papers*, vol. XXXVIII, p. 4; *Hertslet's Commercial Treaties*, vol. VIII, p. 969; by Martens, *Nouveau Recueil Général*, vol. XV, p. 187; Malloy, *Treaties etc. between the United States and Other Powers*, p. 659, and Martens et de Cussy, *Recueil Manuel et Pratique des Traités*, vol. VI, p. 386. There is added to Miller's text here, reproduced from *British and Foreign State Papers*, vol. XLII, p. 162, the text of the Declaration respecting British Honduras made by the British plenipotentiary upon the exchange of ratifications. This is printed also in *Hertslet's Commercial Treaties*, vol. X, p. 645, and by Martens, *Nouveau Recueil Général*, vol. XV, p. 192.

ENGLISH TEXTS

THE UNITED STATES OF AMERICA and HER BRITANNIC MAJESTY, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by Ship Canal, which may be constructed between the Atlantic and Pacific Oceans, by the way of the River San Juan de Nicaragua and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean,—THE PRESIDENT OF THE UNITED STATES, has conferred full powers on JOHN M. CLAYTON, Secretary of State of the United States; and HER BRITANNIC MAJESTY on the Right Honourable Sir HENRY LYTTON BULWER, a Member of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles.

ARTICLE I.

The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain

for itself any exclusive control over the said Ship Canal; agreeing, that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or People for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection or influence that either may possess with any State or Government through whose territory the said Canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said Canal, which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain, traversing the said Canal, shall, in case of war between the contracting parties, be exempted from blockade, detention or capture, by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said Canal, as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said Canal, the contracting parties engage that, if any such Canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local Government or Governments, through whose territory the same may pass, then the persons employed in making the said Canal and their property used, or to be used, for that object, shall be protected, from the commencement of the said Canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise, with any State, States or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the

said Canal shall traverse, or which shall be near the waters applicable thereto; in order to induce such States, or Governments, to facilitate the construction of the said Canal by every means in their Power: and furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free Ports,—one at each end of the said Canal.

ARTICLE V.

The contracting parties further engage that, when the said Canal shall have been completed, they will protect it from interruption, seizure or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said Canal may forever be open and free, and the capital invested therein, secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said Canal, and guaranteeing its neutrality and security when completed, always understand that, this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government, should deem that the persons, or company, undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon, as are contrary to the spirit and intention of this Convention,—either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandize or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee, without first giving six months notice to the other.

ARTICLE VI.

The contracting parties in this Convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other; to the end, that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the Canal herein contemplated. And the contracting parties likewise agree that, each shall enter into Treaty stipulations with such of the Central American States, as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention, namely,—that of constructing and maintaining the said Canal as a ship-communication between the

two Oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they, also, agree that, the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such Treaty stipulations; and, should any differences arise as to right or property over the territory through which the said Canal shall pass—between the States or Governments of Central America,—and such differences should, in any way, impede or obstruct the execution of the said Canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said Canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said Canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons, or company, as may first offer to commence the same with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this Convention; and if any persons, or company, should already have, with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a Canal as that specified in this Convention,—to the stipulations of which contract neither of the contracting parties in this Convention have any just cause to object,—and the said persons, or company, shall, moreover, have made preparations and expended time, money and trouble on the faith of such contract, it is hereby agreed, that such persons, or company, shall have a priority of claim over every other person, persons or company, to the protection of the Governments of the United States and Great Britain, and be allowed a year, from the date of the exchange of the ratifications of this Convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood, that if, at the expiration of the aforesaid period, such persons, or company, be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons, or company, that shall be prepared to commence and proceed with the construction of the Canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired in entering into this Convention, to accomplish a particular object, but, also, to establish a general principle, they hereby agree to extend their protection, by Treaty stipulations, to any other practicable communications, whether by Canal or rail-way, across the Isthmus which connects North and South America; and, especially, to the interoceanic communications,—should the same prove to be practicable, whether by Canal or rail-way,—which are now proposed to be established by the way of Tehuantepec, or Panama. In granting, however, their joint protection to any such Canals, or rail-ways, as are by this Article specified, it is always understood by the United States and Great Britain, that the parties constructing or owning the same, shall impose no other charges or conditions of traffic thereupon, than the aforesaid Governments shall approve of, as just and equitable; and, that the same Canals, or rail-ways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall, also, be open on like terms to the citizens and subjects of every other State which is willing to grant thereto, such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this Convention shall be exchanged at Washington, within six months from this day, or sooner, if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our Seals.

Done, at Washington, the nineteenth day of April, Anno Domini, one thousand eight hundred and fifty.

JOHN M. CLAYTON [Seal]

HENRY LYTTON BULWER [Seal]

*Tratado Clayton-Bulwer entre los Estados Unidos y
la Gran-Bretaña,*

*garantizando la neutralidad de toda comunicacion interoceánica á través del
istmo centro-americano.*

Washington, 19 de Abril de 1850.

SU MAJESTAD BRITÁNICA y los Estados-Unidos de América deseando consolidar las relaciones de amistad que tan felizmente subsisten entre ellos, estableciendo y fijando en un convenio sus miras é intenciones referentes á cualesquiera medios de comunicacion por canal navegable que pueda construirse entre los océanos Atlántico y Pacífico por la vía del río San Juan de Nicaragua y cualquiera ó ámbos de los lagos de Nicaragua ó Managua, á un puerto ó lugar del océano Pacífico; Su Majestad Británica ha conferido plenos poderes al Muy Honorable Sir Henry Lytton Bulwer, miembro del Muy Honorable Consejo Privado de Su Majestad, caballero comendador de la Muy Honorable Orden del Baño, y Enviado Extraordinario y Ministro Plenipotenciario de Su Majestad Británica en los Estados Unidos; y el Presidente de los Estados-Unidos á John M. Clayton, Secretario de Estado de los Estados-Unidos, con el objeto expresado; y dichos Plenipotenciarios habiendo canjeado sus plenos poderes, que hallaron en debida forma, han convenido en los artículos siguientes :

ART. I. — Los Gobiernos de la Gran-Bretaña y de los Estados-Unidos declaran por la presente que ni uno ni otro obtendrá ó mantendrá jamas para sí ninguna autoridad exclusiva (exclusive control) sobre dicho Canal navegable; conviniendo en que ni uno ni otro erigirá ó mantendrá fortificaciones que lo dominen ó en su vocidad, ni ocupará, fortificará, colonizará, asumirá ó ejercerá ningún dominio sobre Nicaragua, Costa-Rica, la Costa de Mosquitos ú otra parte de Centro-América; ni uno ni otro se aprovechará de ninguna proteccion que uno ú otro dé ó pueda dar ó de ninguna alianza que uno ú otro tenga ó pueda tener con ningún Estado ó pueblo con el objeto de erigir ó mantener tales fortificaciones, ó de ocupar, fortificar ó colonizar Nicaragua, Costa-Rica, la Costa de Mosquitos ú otra parte de Centro-América, ó de asumir ó ejercer dominio sobre ellas. Ni la Gran Bretaña ni los Estados-Unidos se aprovecharán de ninguna intimidad, ni se servirán de ninguna alianza, conexión ó influencia que uno ú otro pueda tener con ningún Estado ó Gobierno por cuyo territorio haya de pasar dicho canal, con el objeto de adquirir ó retener directa ó indirectamente para los súbditos ó ciudadanos de uno de ellos cualesquiera derechos ó ventajas de comercio ó navegacion por el canal, que no se hubiesen ofrecido en las mismas condiciones á los súbditos ó ciudadanos del otro.

ART. II. — En caso de guerra entre las Partes contratantes, los buques de la Gran-Bretaña ó de los Estados-Unidos que atraviesen el canal estarán exentos de bloqueo, detencion ó captura por uno ú otro de los beligerantes; y esta disposicion se extenderá á la distancia de las dos extremidades del canal que en lo sucesivo se crea conveniente establecer.

ART. III. — A fin de asegurar la construccion de dicho canal, las Partes contratantes se obligan á que, emprendiéndose la obra del canal en condiciones moderadas y equitativas por individuos autorizados por el Gobierno ó Gobiernos locales por cuyo territorio se abra el canal, las personas empleadas en construirlo y su propiedad usada ó que se use con tal objeto serán protegidas desde el comienzo del canal hasta su conclusion por los Gobiernos de la Gran-Bretaña y los Estados Unidos contra toda detencion, confiscacion, secuestro injusto ó cualquier otra violencia.

ART. IV. — Las Partes contratantes usarán de toda la influencia que respectivamente tengan con cualesquier Estado, Estados ó Gobiernos que tengan ó pretendan tener jurisdiccion ó derecho sobre el territorio que atraviese el canal, ó que se halle en la vecindad de sus aguas, á fin de inducir á esos Estados ó Gobiernos á que faciliten la construccion de dicho canal por cuantos medios esten á su alcance; y ademas, la Gran-Bretaña y los Estados-Unidos se comprometen á usar sus buenos oficios, donde ó como sea mas conveniente para procurar el establecimiento de dos puertos francos, uno á cada extremidad del canal.

ART. V. — Las Partes contratantes se obligan ademas, una vez concluido el canal, á protegerlo contra interrupcion, secuestro ó confiscacion injusta y á garantizar su neutralidad, de manera que dicho canal esté siempre abierto y libre y seguro el capital en él invertido. No obstante, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos, al dar su proteccion á la construccion de dicho canal y al garantizar su neutralidad y seguridad cuando esté concluido, siempre tienen entendido que esta proteccion y garantia son otorgadas condicionalmente y ambos Gobiernos ó uno ú otro pueden retirarlas, si ambos Gobiernos ó uno ú otro creyesen que las personas ó compañía que emprenden ó administran dicho canal adoptan ó establecen reglamentos para su tráfico contrarios al espíritu y á la intencion de esta convencion ya sea haciendo injustas distinciones en favor del comercio de una de las Partes contratantes sobre el comercio de la otra, ya imponiendo exacciones opresivas ó peajes inmoderados sobre pasajeros, buques, géneros, mercancías ú otros artículos. Ninguna de las partes podrá retirar dicha proteccion ó garantia sin previo aviso de seis meses á la otra.

ART. VI. — Las Partes contratantes de esta convencion se comprometen á invitar á todos los Estados con quienes ambas ó una ú otra tienen amistosas relaciones para convenir con ellas en las mismas estipulaciones en que ellas han convenido entre una y otra, á fin de que todos los demas Estados participen de la honra y ventaja de haber contribuido á una obra de tan general interés y de tanta importancia como el canal de que se trata; y las Partes contratantes igualmente estipulan que cada una de ellas celebrará tratados con los Estados centro-americanos que estimen conveniente, con el objeto de realizar mas eficazmente el gran designio de esta convencion, á saber: el de construir y mantener dicho canal como comunicacion navegable entre los dos océanos para beneficio de la humanidad, en iguales condiciones para todos, y de protegerlo; y tambien estipulan que una y otra emplearán sus buenos oficios, cuando la otra los pida, para ayudar y contribuir á la negociacion de

dichos tratados; y si surgiesen algunas diferencias en cuanto al derecho ó propiedad sobre el territorio por donde debe pasar dicho canal, entre los Estados ó Gobiernos de Centro-América, y si tales diferencias impidiesen ó estorbasen de cualquier manera la ejecución de dicho canal, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos usarán de sus buenos oficios á fin de arreglar tales diferencias de la manera mas conveniente para promover los intereses de dicho canal y para fortalecer los vínculos de amistad y alianza que existen entre las Partes contratantes.

ART. VII. — Siendo deseable no perder tiempo sin necesidad para comenzar y construir dicho canal, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos determinan apoyar y alentar á las personas ó compañía que primero se ofrezcan á comenzarle, con el capital necesario, con el consentimiento de las autoridades locales y bajo principios conformes con el espíritu y la intención de esta convencion; y si algunas personas ó compañía tuviesen ya un contrato con cualquier Estado por donde deba pasar el canal proyectado para construirlo segun lo especifica esta convencion; contrato á cuyas estipulaciones no tenga objecion justa que oponer ninguna de las Partes contratantes de esta convencion; y si dichas personas ó compañía han hecho ademas preparativos y gastado tiempo, dinero y trabajo fiadas en tal contrato, por la presente se estipula que tales personas ó compañía tendrán prioridad de derecho sobre cualesquiera otras persona, personas ó compañía, á la proteccion de los Gobiernos de la Gran-Bretaña y de los Estados-Unidos, y se les concederá un año, contado desde la fecha del canje de las ratificaciones de esta convencion, para concluir sus arreglos y presentar pruebas de que se ha suscrito suficiente capital para ejecutar la proyectada empresa; entendiéndose que, si á la expiracion del periodo enunciado, dichas personas ó compañía no pudiesen comenzar y concluir la proyectada empresa, los Gobiernos de la Gran-Bretaña y de los Estados-Unidos estarán en libertad de dar su proteccion á cualesquiera otras personas ó compañía que esten dispuestas á comenzar y continuar la construccion del canal en cuestion.

ART. VIII. — Los Gobiernos de la Gran-Bretaña y de los Estados-Unidos queriendo, al celebrar esta convencion, no solamente realizar un objeto particular sino tambien establecer un principio general, por la presente convienen en extender su proteccion por tratado á cualesquiera otras comunicaciones practicables, por canal ó ferrocarril, á traves del istmo que une la América del Norte á la del Sur; y especialmente á las comunicaciones interoceánicas, si resultasen practicables, por canal ó ferrocarril, que se proyecta establecer ahora por la via de Tehuantepec ó de I'anamá.

No obstante, al conceder ambos su proteccion á cualesquiera canales ó ferrocarriles, como se especifica en este artículo, queda siempre entendido por la Gran-Bretaña y los Estados-Unidos que las partes que construyan ó posean dichas vias no impondrán mas cargas ó condiciones de tráfico por ellas que las que serán aprobadas por dichos Gobiernos como justas y equitativas; y que los mismos canales ó ferrocarriles, abriéndose para los súbditos y ciudadanos de la Gran-Bretaña y de los Estados-Unidos en términos iguales, tambien estarán abiertos en términos idénticos á los súbditos y

ciudadanos de los demás Estados que quieran conceder á dichas vías la misma proteccion que la Gran-Bretaña y los Estados-Unidos se obligan á darles.

ART. IX.—Las ratificaciones de esta convencion se canjearán en Washington dentro de seis meses contados desde hoy, ó ántes si fuere posible.

En fé de lo cual nosotros los respectivos Plenipotenciarios hemos firmado esta convencion y la hemos sellado con nuestros sellos.

Hecho en Washington, el diez y nueve de abril, Anno Domini mil ochocientos y cincuenta.

(Firmado) HENRY LYTTON BULWER (L. S.)

JOHN M. CLAYTON (L. S.)

Annex 9

**COSTA RICA-UNITED STATES TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION (MOLINA-WEBSTER),
WASHINGTON, D.C., PREAMBLE AND ARTICLES II, IV,
VI, VII, VIII, XI AND XII, 10 JULY 1851**

**SOURCES: ENGLISH VERSION: *REPORT OF THE ISTHMIAN
CANAL COMMISSION 1899-1901* (WASHINGTON:
GOVERNMENT PRINTING OFFICE, 1904), PP. 417-420.
SPANISH VERSION: *COLECCIÓN DE LOS TRATADOS
INTERNACIONALES CELEBRADOS POR LA REPÚBLICA
DE COSTA RICA*, TOMO PRIMERO (SAN JOSÉ:
TIPOGRAFÍA NACIONAL, 1892), PP. 65-72**

REPORT

OF THE

ISTHMIAN CANAL COMMISSION,

1899-1901.

REAR-ADMIRAL JOHN G. WALKER,
UNITED STATES NAVY,
President.

HON. SAMUEL PISCO.
MR. GEORGE E. MORISON.

LIEUT. COL. OSWALD N. KROST,
Corps of Engineers, U. S. Army.

LEWIS M. HAUPT, C. E.

ALFRED NOBLE, C. E.
COL. PETER C. HAINES,
Corps of Engineers, U. S. Army.
WILLIAM H. BURR, C. E.
PROF. EMORY R. JOHNSON.

LIEUT. COMMANDER SIDNEY A. STAUNTON,
UNITED STATES NAVY,
Secretary.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

APPENDIX V.

COSTA RICA, 1851. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION

Concluded July 10, 1851; ratification advised by the Senate March 11, 1859; ratified by the President May 26, 1859; ratifications exchanged May 26, 1859; proclaimed May 26, 1859.

Articles.

- | | |
|---|---|
| I. Amity. | VIII. Equal treatment of citizens. |
| II. Freedom of commerce and navigation. | IX. Exemption from military service, etc. |
| III. Most favored nation privileges. | X. Consular and diplomatic privileges. |
| IV. No discrimination in duties. | XI. Rights in case of war. |
| V. Tonnage duties. | XII. Property rights. |
| VI. No discrimination on vessels. | XIII. Duration. |
| VII. Equal trade privileges. | XIV. Pesticides. |

In the Name of the Most Holy Trinity.

Commercial intercourse having been for some time established between the United States and the Republic of Costarica, it seems good for the security as well as the encouragement of such commercial intercourse, and for the maintenance of good understanding between the United States and the said republic, that the relations now subsisting between them, should be regularly acknowledged and confirmed by the signature of a Treaty of Amity, Commerce and Navigation;

For this purpose they have named their respective Plenipotentiaries, that is to say:—

The President of the United States, Daniel Webster, Secretary of State;

And his Excellency the President of the Republic of Costarica, Señor Don Felipe Molina, Envoy Extraordinary and Minister Plenipotentiary of that Republic to the United States;

Who after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens on the one part, and the Government of the Republic of Costarica and its citizens on the other.

ARTICLE II

There shall be between all the territories of the United States and the territories of the Republic of Costarica a reciprocal freedom of commerce. The subjects and citizens of the two countries respectively shall have liberty freely and securely to come with their ships and cargoes to all places ports and rivers in the territories aforesaid, to which other foreigners are or may be permitted to come; to enter into the same, and to remain and reside in any part thereof, respectively; also to hire and occupy houses and ware houses for the purposes of their commerce; and generally the merchants and traders of each nation respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively.

In like manner the respective ships of war and post office packets of the two countries shall have liberty freely and securely to come to all harbors, rivers and places, to which other foreign ships of war and packets are or may be permitted to come; to enter into the same, to anchor and to remain there and reef, subject always to the laws and statutes of the two countries respectively.

By the right of entering the places ports and rivers mentioned in this Article, the privilege of carrying on the coasting trade is not understood, in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III

It being the intention of the two High Contracting Parties to bind themselves by the preceding Articles to treat each other on the footing of the most favored nation it is hereby agreed between them, that any favor, privilege or immunity whatever, in matters of commerce and navigation, which either Contracting Party has actually granted, or may hereafter grant, to the subjects or citizens of any other State, shall be extended to the subjects or citizens of the other High Contracting Party, gratuitously, if the concession in favor of that other nation shall have been gratuitous; or in return for compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concessions shall have been conditional.

ARTICLE IV.

No higher nor other duties shall be imposed on the importation into the territories of the United States, of any article being of the growth, produce or manufacture of the Republic of Costa Rica and no higher or other duties shall be imposed on the importation into the territories of the Republic of Costa Rica of any articles being the growth, produce or manufacture of the territories of the United States than are or shall be payable on the like articles, being the growth, produce or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the High Contracting Parties, on the exportation of any articles to the territories of the other, than such as are or may be payable on the exportation of the like articles to any other foreign country, nor shall any prohibition be imposed upon the exportation or importation of any articles the growth, produce or manufacture of the territories of the United States, or of the Republic of Costa Rica, to or from the said territories of the United States, or to or from the Republic of Costa Rica, which shall not equally extend to all other nations.

ARTICLE V.

No higher nor other duties or payments on account of tonnage or light or harbor dues, of pilotage, of salvage in case either of damage or shipwreck, or on account of any other local charges, shall be imposed in any of the ports of the Republic of Costa Rica on vessels of the United States, than those payable in the same ports by Costarican vessels; nor in any of the ports of the United States, on Costarican vessels, than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

The same duties shall be paid on the importation into the territories of the Republic of Costa Rica, of any article being of the growth, produce or manufacture of the territories of the United States whether such importation shall be made in Costarican or in vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article, being the growth, produce or manufacture of the Republic of Costa Rica, whether such importation shall be made in the United States or in Costarican vessels.

The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to the Republic of Costa Rica, of any articles being the growth, produce or manufacture of the territories of the United States whether such exportations shall be made in Costarican or in United States vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles, being the growth, produce or manufacture of the Republic of Costa Rica to the territories of the United States, whether such exportations shall be made in United States or in Costarican vessels.

ARTICLE VII

All merchants, commanders of ships and other citizens of the United States shall have full liberty in all the territories of the Republic of Costa Rica, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Costaricans, nor to pay them any other salary or remuneration than such as is paid in like cases by Costarican citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into or exported from the Republic of Costa Rica as they shall see good, observing the laws and established customs of the country. The same privileges shall be enjoyed in the territories of the United States by the citizens of the Republic of Costa Rica under the same conditions.

The citizens of the High Contracting Parties shall reciprocally receive and enjoy full and perfect protection for their persons and property and shall have free and open access to the courts of justice in the said countries, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ in all cases, the advocates, attorneys, or agents of whatever description, whom they may think proper, and they shall enjoy in this respect the same rights and privileges therein as native citizens.

ARTICLE VIII

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of merchandises, goods and effects, the succession to personal estates by will or otherwise, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or in any other manner whatsoever, as also the administration of justice; the citizens of the two high contracting parties, shall reciprocally enjoy the same privileges, liberties and rights, as native citizens, and they shall not be charged in any of these respects, with any higher imposts or duties than those which are paid or may be paid by native citizens; submitting of course to the local laws and regulations of each country, respectively.

If any citizen of either of the two High Contracting Parties shall die without will or testament in any of the Territories of the other, the Consul-General or Consul of the nation to which the deceased belonged, or the representative of such Consul-General or Consul in his absence, shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased; giving proper notice of such nomination to the authorities of the country.

ARTICLE IX.

The citizens of the United States residing in the Republic of Costa Rica, and the citizens of the Republic of Costa Rica residing in the United States, shall be exempted from all compulsory military service whatsoever, either by sea or by land, and from all forced loans or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay other ordinary charges, requisitions or taxes, greater than those that are paid by native citizens of the Contracting Parties respectively.

ARTICLE X.

It shall be free for each of the two High Contracting Parties to appoint Consuls for the protection of trade, to reside in any of the territories of the other Party; but before any Consul shall act as such, he shall, in the usual form be approved and admitted by the Government to which he is sent; and either of the High Contracting Parties may except from the residence of Consuls such particular places as they judge fit to be excepted. The Costa Rican Diplomatic Agents and Consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities are or shall be granted to agents of the same rank belonging to the most favored nation; and in like manner the Diplomatic Agents and Consuls of the United States in the Costa Rican territories shall enjoy according to the strictest reciprocity whatever privileges, exemptions and immunities are or may be granted in the Republic of Costa Rica to Diplomatic Agents and Consuls of the most favored nation.

ARTICLE XI.

For the better security of commerce between the citizens of the United States and the citizens of the Republic of Costa Rica, it is agreed, that if at any time any interruption of friendly intercourse, or any rupture should unfortunately take place between the two High Contracting Parties, the citizens of either of the two High Contracting Parties who may be within any of the territories of the other, shall, if residing upon the coast, be allowed six months, and if in the interior, a whole year to wind up their accounts and dispose of their property; and a safe-conduct shall be given them to embark at the port which they themselves shall select; and even in the event of a rupture, all such citizens of either of the two High Contracting Parties who are established in any of the territories of the other, in the exercise of any trade or special employment, shall have the privilege of remaining and of continuing such trade and employment therein without any manner of interruption, in the full enjoyment of their liberty and property as long as they behave peaceably, and commit no offence against the laws; and their goods and effects of whatever description they may be, whether in their own custody or intrusted to individuals or to the State, shall not be liable to seizure or sequestration, nor to any other charges or demands than those which may be made upon the like effects or property belonging to

the native citizens of the country in which such citizens may reside. In the same case debts between individuals, property in public funds, and shares of companies, shall never be confiscated, sequestered nor detained.

ARTICLE XII.

The citizens of the United States and the citizens of the Republic of Costa Rica, respectively, residing in any of the territories of the other party shall enjoy in their houses, persons, and properties, the protection of the Government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, either within their own private houses or in the places of worship destined for that purpose, agreeably to the system of tolerance established in the territories of the two High Contracting Parties; provided they respect the religion of the nation in which they reside, as well as the constitution, laws and customs of the country. Liberty shall also be granted to bury the citizens, of either of the two High Contracting Parties who may die in the territories aforesaid, in burial-places of their own, which in the same manner may be freely established and maintained; nor shall the funerals or sepulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII.

In order that the two High Contracting Parties may have the opportunity of hereafter treating and agreeing upon such other arrangements as may tend still further to the improvement of their mutual intercourse, and to the advancement of the interests of their respective citizens, it is agreed that, at any time after the expiration of seven years from the date of the exchange of the ratifications of the present Treaty, either of the High Contracting Parties shall have the right of giving to the other Party notice of its intention to terminate Articles IV, V & VI of the present Treaty; and that at the expiration of twelve months after such notice shall have been received by either Party from the other, the said Articles, and all the stipulations contained therein shall cease to be binding on the two High Contracting Parties.

ARTICLE XIV.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Washington or at San José de Costa Rica within the space of one year, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done at Washington this tenth day of July, in the year of our Lord one thousand eight hundred and fifty-one.

DAN'L WEBSTER (SEAL.)
F. MOLINA (SEAL.)

COLECCION

DE LOS

TRATADOS INTERNACIONALES

CELEBRADOS POR LA

REPUBLICA DE COSTA RICA



TOMO PRIMERO

SAN JOSÉ DE COSTA RICA, A. C.

Tipografía Nacional

1892

TRATADO

[De 10 de Julio de 1851],

*de amistad, comercio y navegación, con los
Estados Unidos de América.*

EN EL NOMBRE DE LA SANTÍSIMA TRINIDAD.

Habiendo tráfico comercial establecido, hace algún tiempo, entre la República de Costa Rica y los Estados Unidos, ha parecido conveniente para la seguridad como también para el fomento de sus mutuos intereses, y para la conservación de la buena inteligencia entre la mencionada República y los Estados Unidos, que las relaciones que ahora existen entre ambas Partes, sean reconocidas y confirmadas formalmente por medio de un tratado de amistad, comercio y navegación.

Con este objeto han sido nombrados los respectivos Plenipotenciarios, á saber.

Por Su Excelencia el Presidente de la República de Costa Rica, el Señor don Felipe Molina, Enviado Extraordinario y Ministro Plenipotenciario de dicha República cerca del Gobierno de los Estados Unidos.

Y por el Presidente de los Estados Unidos, Daniel Webster, Secretario de Estado.

Quienes, después de haberse comunicado mutuamente sus plenos poderes y hallarlos en debida y regular forma, han acordado y concluido los artículos siguientes:

Habrá una perpetua amistad entre el Gobierno de la República de Costa Rica y sus ciudadanos por una parte, y los Estados Unidos y sus ciudadanos por otra parte.

Artículo II.

Habrá entre los territorios de la República de Costa Rica y todos los territorios de los Estados Unidos, una recíproca libertad de comercio. Los ciudadanos y súbditos de los dos países, respectivamente, tendrán libertad para ir, libre y seguramente con sus buques y cargamentos, á todos parajes, puertos y ríos, en los territorios antedichos, á los cuales se permite ó se permitiere ir á otros extranjeros, entrar en los mismos y permanecer y residir en cualquiera parte de ellos, respectivamente; también para alquilar y ocupar casas y almacenes para los objetos de su comercio; y generalmente los comerciantes y traficantes de cada nación, respectivamente, gozarán la más completa protección y seguridad para su comercio; estando siempre sujetos á las leyes y estatutos de los dos países respectivamente.

Del mismo modo los respectivos buques de guerra y paquetes de correo de los dos países tendrán libertad para llegar franca y seguramente á todos los puertos, ríos y lugares á que se permite ó se permitiere llegar buques de guerra y paquetes de correo de otras naciones, entrar en los mismos, anclar y permanecer en ellos y repararse, sujetos siempre á las leyes y estatutos de los países respectivamente.

Por el derecho de entrar en parajes, puertos y ríos de que se hace relación en este artículo, no está comprendido el privilegio de comercio de escala y cabotaje, que únicamente será permitido á buques nacionales del país donde se hiciere semejante comercio.

Artículo III.

Siendo la intención de las dos Altas-Partes Contratantes, el obligarse por los artículos precedentes á tratarse la una á la otra en los mismos términos que á la Nación más favorecida, por el presente convienen mutuamente, en que cualquier favor, privilegio ó inmunidad, de cualquier especie que fuere, que en materia de comercio y navegación haya concedido actualmen-

te ó pueda en adelante conceder alguna de las Partes Contratantes á los súbditos ó ciudadanos de otra Nación cualquiera, se hará extensivo á los súbditos ó ciudadanos de la otra Alta Parte Contratante, gratuitamente, siempre que la concesión en favor de la otra Nación hubiere sido gratuita; pues siendo condicional, en tal caso por mutuo convenio se acordará una compensación equivalente, cuanto sea posible, y proporcionada, así en el valor como en los resultados.

Artículo IV.

No se impondrán otros ó más altos derechos á la importación en los territorios de la República de Costa Rica, de cualesquiera artículos del producto natural, producciones ó manufacturas de los territorios de los Estados Unidos, ni se impondrán otros ó más altos derechos á la importación en los territorios de los Estados Unidos de cualesquiera artículos del producto natural, producciones ó manufacturas de la República de Costa Rica que los que se pagan ó pagaren por semejantes artículos cuando sean producto natural, producciones ó manufacturas de cualesquiera otro país extranjero, ni se impondrán otros más altos derechos ó impuestos en los territorios de cualquiera de las dos Altas Partes Contratantes á la exportación de cualesquiera artículos para los territorios de la otra, que los que se pagan ó pagaren por la exportación de iguales artículos para cualquiera otro país extranjero, ni se impondrá prohibición alguna á la exportación ó importación de cualesquiera artículos de producto natural, producciones ó manufacturas de los territorios de la República de Costa Rica ó de los territorios de los Estados Unidos, para los dichos ó de los dichos territorios de la República de Costa Rica; ó para los dichos ó de los dichos territorios de los Estados Unidos, que no se extiendan igualmente á todas las otras Naciones.

Artículo V.

No se impondrán otros ni más altos derechos ni pagar por razón de puerto, práctico, derecho de salvamento en caso de pérdida ó naufragio, ni por razón de algunas otras cargas tales, en ninguno de los puertos de los Estados Unidos, á buques costarricenses, sino los que únicamente pagan en mismos los buques de los Estados Unidos; ni en los puertos

la República de Costa Rica se impondrán á los buques de los Estados Unidos otras cargas que las que en los mismos puertos, pagan los costarricenses.

Artículo VI.

Se pagarán los mismos derechos de importación en los territorios de los Estados Unidos por los artículos de productos naturales, producciones y manufacturas, en buques de los Estados Unidos ó Costarricenses; y los mismos derechos se pagarán por la importación en los territorios de la República de Costa Rica, de las manufacturas, efectos, y producciones de los territorios de los Estados Unidos, aunque su importación sea en buques Costarricenses ó de los Estados Unidos.

Los mismos derechos pagarán, y gozarán las mismas franquicias y descuentos concedidos á la exportación para los territorios de los Estados Unidos de cualesquiera artículos de los productos naturales, producciones ó manufacturas de la República de Costa Rica, ya sea que la exportación se haga en buques de los Estados Unidos ó Costarricenses, y pagarán los mismos derechos y se concederán las mismas franquicias y descuentos á la exportación para la República de Costa Rica, de cualesquiera artículos de productos naturales, producciones ó manufacturas de los territorios de los Estados Unidos, sea que esta exportación se haga en buques Costarricenses ó de los Estados Unidos.

Artículo VII.

Todo comerciante, comandante de buque, y otros ciudadanos de la República de Costa Rica, gozaran de libertad completa en todos los territorios de los Estados Unidos, para manejar por sí sus propios negocios, ó para encargar su manejo á quien mejor le parezca, sea corredor, factor, agente ó intérprete; y no se les obligará á emplear para estos objetos á ninguna otra persona más que las que se emplean por los ciudadanos de los Estados Unidos, ni estarán obligados á pagarles más salario ó remuneración que la que en semejantes casos se paga por ciudadanos de los Estados Unidos; y se concederá libertad absoluta en todos los casos al comprador y vendedor para ajustar y fijar el precio de cualesquiera efectos, mercaderías y géneros importados y exportados de la República de Costa Rica, como crean conveniente, conformándose con las leyes y costumbres estable-

ciudadanos en el país. Los mismos privilegios disfrutarán en los territorios de la República de Costa Rica los ciudadanos de los Estados Unidos y sujetos á las mismas condiciones.

Los ciudadanos de las Altas Partes Contratantes recibirán y gozarán recíprocamente de completa y perfecta protección en sus personas y propiedades, y tendrán libre y fácil acceso á los tribunales de justicia en los referidos países, respectivamente, para la prosecución y defensa de sus justos derechos; y estarán en libertad de emplear en todos casos los abogados, procuradores ó agentes de cualquier clase, que juzguen conveniente, y gozarán en este respecto, los mismos derechos y privilegios que allí disfrutaren los ciudadanos nativos.

Artículo VIII.

Por lo que toca á la policía de los puertos, á la carga y descarga de buques, la seguridad de las mercancías, bienes y efectos, la sucesión de las propiedades personales por testamento ó de otro modo, y al derecho de disponer de la propiedad personal de cualquiera clase ó denominación, por venta, donación, permuta, testamento ó de otro modo cualquiera, así como también á la administración de justicia; los ciudadanos de las dos Altas Partes Contratantes gozarán recíprocamente los mismos privilegios, libertades y derechos, que si fueran ciudadanos nativos; y no se les cargará, en ninguno de estos puntos ó casos, mayores impuestos y derechos que los que paguen, ó en adelante pagaren los ciudadanos nativos; sujetos por supuesto á las leyes y estatutos locales de cada país, respectivamente.

En caso que muriese algún ciudadano de cualesquiera de las dos Altas Partes Contratantes, sin haber hecho su última disposición ó testamento en los territorios de la otra, el Cónsul General ó el Cónsul de la Nación á que pertenecía el difunto, ó en su ausencia el que representare á dicho Cónsul General ó Cónsul, tendrá el derecho de nombrar curadores que se encarguen de la propiedad del difunto, en cuanto las leyes del país lo permitieren, á beneficio de los legítimos herederos y acreedores del difunto; dando noticia conveniente á las autoridades del país.

Artículo IX.

Los ciudadanos de los Estados Unidos residentes en la

República de Costa Rica, y los ciudadanos de la República de Costa Rica residentes en los Estados Unidos, estarán exentos de todo servicio militar forzado de cualquier especie, de mar ó de tierra, y de todo préstamo forzoso y exacciones militares ó requisiciones; ni serán compelidos á pagar, bajo ningún pretexto, cualesquiera cargos ordinarios, requisiciones, ó impuestos, mayores que los que paguen los ciudadanos nativos de las Partes Contratantes, respectivamente.

Artículo X.

Cada una de las dos Altas Partes Contratantes podrá nombrar Cónsules para la protección del comercio, que residan en cualquiera de los territorios de la otra Parte; pero antes que ningún Cónsul funcione como tal, deberá ser aprobado y admitido en la forma acostumbrada, por el Gobierno á quien se dirige; y cualquiera de las Altas Partes Contratantes puede exceptuar de la residencia de Cónsules aquellos puntos particulares en que no tenga por conveniente admitirlos. Los Agentes diplomáticos y los Cónsules de la República de Costa Rica gozarán en los territorios de los Estados Unidos, de todos los privilegios, exenciones é inmunidades concedidas ó que se concedieren á los agentes de igual rango de la nación más favorecida; y del mismo modo los Agentes diplomáticos y Cónsules de los Estados Unidos, en los territorios de la República de Costa Rica, gozarán conforme á la más exacta reciprocidad, todos los privilegios, exenciones é inmunidades que se conceden ó en adelante se concedieren, á los Agentes diplomáticos y Cónsules de la Nación más favorecida en la República de Costa Rica.

Artículo XI.

Para mayor seguridad del comercio entre los ciudadanos de los Estados Unidos y los ciudadanos de la República de Costa Rica, se estipula que, si en algún tiempo ocurriese desgraciadamente una interrupción en las relaciones amistosas, y se efectuare un rompimiento entre las dos Altas Partes Contratantes, se concederán á los ciudadanos de ambas Partes Contratantes, que estén dentro de los territorios de la otra, si residen en las costas, seis meses; y un año entero á los que residan en el interior para arreglar sus negocios, y disponer de sus propiedades.

des y se les dará un salvoconducto para que se embarquen en el puerto que ellos eligieren; y aun en caso de un rompimiento, todos aquellos ciudadanos de cualquiera de las dos Altas Partes Contratantes que estén establecidos en cualquiera de los territorios de la otra en el ejercicio de algún tráfico u ocupación especial tendrán el privilegio de permanecer y continuar dicho tráfico y ocupación en el referido país, sin que se les interrumpa en manera alguna en el goce absoluto de su libertad y de sus bienes, mientras se conduzcan pacíficamente y no cometan ofensa alguna contra las leyes, y sus bienes y efectos, de cualquiera clase que sean, bien que estén bajo su propia custodia, ó confiados á individuos, ó al Estado, no estarán sujetos á embargo ó secuestro, ni á ninguna carga ó imposición que la que se haga con respecto á los efectos ó bienes pertenecientes á los ciudadanos del país en que dichos ciudadanos residan. De igual modo, ó en el mismo caso, ni las deudas entre particulares, ni los fondos públicos, ni las acciones de compañías, serán jamás confiscadas, secuestradas ó detenidas.

Artículo XII.

Los ciudadanos de la República de Costa Rica y los ciudadanos de los Estados Unidos que residan en cualquiera de los territorios de la otra Parte, gozarán recíprocamente en sus casas, personas y bienes de la protección del Gobierno, y continuarán en posesión de las garantías que actualmente tienen. No serán inquietados, molestados ni perturbados en manera alguna, en razón de su creencia religiosa, ni en los ejercicios propios de su religión, ya dentro de sus casas particulares, en los lugares de culto destinados para aquel objeto, conforme al sistema de tolerancia establecido en los territorios de las dos Altas Partes Contratantes, con tal que respeten la religión de la Nación en que residan, así como la Constitución, leyes y costumbres establecidas. Tendrán también libertad de enterrar á los ciudadanos de cualquiera de las dos Altas Partes Contratantes, que murieren en los referidos territorios, en sus propios cementerios que podrán, del mismo modo libremente, establecer y mantener y no se molestarán los funerales ni los sepulcros de los muertos, de ningún modo, ni por motivo alguno.

Artículo XIII.

Para que las dos Altas Partes Contratantes tengan en ol

futuro oportunidad de tratar y ajustar cualesquiera otros arreglos que tiendan aun más eficazmente á estrechar las relaciones existentes, y al adelanto de los intereses de los respectivos ciudadanos, se ha convenido que en cualquier tiempo, pasados siete años desde la fecha en que se canjeen las ratificaciones del presente tratado, cualquiera de las dos Altas Partes Contratantes podrá poner en conocimiento de la otra Parte sus intenciones de terminar los artículos IV, V y VI del presente tratado; y que al expirar un año desde que una de las Partes haya recibido de la otra dicha noticia, los expresados artículos, y todo su contenido, dejarán de ser obligatorios á las dos Altas Partes Contratantes.

Artículo XIV.

El presente tratado será ratificado, y las ratificaciones cambiadas en San José de Costa Rica ó en Wáshington en el término de un año, ó antes, si fuese posible.

En fe de lo cual los respectivos Plenipotenciarios han firmado el presente, sellándolo con sus sellos respectivos.

Fecho en la ciudad de Wáshington, á los diez días del mes de Julio del año del Señor de mil ochocientos cincuenta y uno.

(L. S.) F. MOLINA.

(L. S.) DANIEL WEBSTER.

Annex 10

UNITED STATES-NICARAGUA TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION (CASS-IRISARRI),
WASHINGTON, D.C., ARTICLES II, IV, VII, VIII, XV, XVI,
XVII AND XX, 16 NOVEMBER 1857

SOURCES: ENGLISH VERSION: C. L. WIKTOR, *UNPERFECTED
TREATIES OF THE UNITED STATES OF AMERICA, VOL. 2,
1856-1882* (NEW YORK: OCEANA PUBLICATIONS, 1976), PP. 135-143.
SPANISH VERSION: US NATIONAL ARCHIVES,
WASHINGTON, *UNPERFECTED TREATY SERIES W-2*

UNPERFECTED TREATIES
OF THE
UNITED STATES OF AMERICA

1776-1976



EDITED AND ANNOTATED BY

CHRISTIAN L. WIKTOR

VOLUME 2

1856-1882

NICARAGUA

FRIENDSHIP, COMMERCE, AND NAVIGATION

Treaty signed at Washington November 16, 1857

Not submitted to the Senate

Treaty file: Unperfected Treaty Series W-2

Printed text: S. Ex. Doc. 112, 46th Cong., 2d sess., pp. 102-107 (serial no. 1885); S. Ex. Doc. 194, 47th Cong., 1st sess., pp. 117-125 (serial no. 1991); S. Doc. 237, 56th Cong., 1st sess., pp. 141-148 (serial no. 3853)

Note: This treaty, also known as the Cass-Irisarri Treaty, was negotiated by Lewis Cass, U.S. Secretary of State, and Antonio José de Irisarri, Nicaraguan Minister to the United States. It was approved by the Nicaraguan National Assembly on March 26, 1858, but the President of Nicaragua did not ratify it, requesting certain amendments and modifications. The treaty was replaced by the similar Lamar-Zeledón Treaty of March 16, 1859, unperfected (UTS X-2) (see Manning, 4 Inter-American Affairs 629-630, 663, 671-672, 676-677, 679, 682, 685-689, et al.; 5 Miller 799-800; Patterson). Both treaties were replaced by an identical treaty of June 21, 1867 (15 Stat. 549; TS 257; 10 Bevans 337). For differences between the treaties of 1857 and the treaty of 1867, see Manning, op. cit., p. 629, footnote 2. The original treaty, in English and Spanish, is in the treaty file. The present text is reprinted from S. Doc. 237, 56th Cong., 1st sess., pp. 141-148 (serial no. 3853).

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION.

The Republic of Nicaragua and the United States of America, being desirous to maintain with each other the most friendly relations, to promote the commercial intercourse of their respective citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific Oceans by the river San Juan de Nicaragua and either or both the lakes of Nicaragua or Managua, or by any other route through the territories of said Republic of Nicaragua, have deemed it expedient to conclude a treaty of friendship, commerce and navigation, and for this purpose have named the following plenipotentiaries, that is to say:

The Republic of Nicaragua, Antonio José de Yrisarri, her envoy extraordinary and minister plenipotentiary in the United States of America;

And the President of the United States of America, Lewis Cass, Secretary of State of the United States; who, after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens, on the one part, and the Government of the Republic of Nicaragua and its citizens on the other.

ARTICLE II.

There shall be, between all the territories of the United States and the territories of the Republic of Nicaragua, a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty, freely and securely, to come, with their ships and cargoes, to all places, ports, and rivers, in the territories aforesaid, to which other foreigners are, or may be, permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also, to hire and occupy houses and warehouses for the purpose of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries respectively.

In like manner the respective ships of war and post-office packets of the two countries shall have liberty, freely and securely, to come to all harbors, rivers, and places to which other foreign ships of war and packets are, or may be, permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood, in which trade national vessels only, of the country where the trade is carried on, are permitted to engage.

ARTICLE III.

It being the intention of the two high contracting parties to bind themselves, by the preceding articles, to treat each other on the footing of the most favored nation, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other state, shall be extended to the subjects of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible, of proportionate value and effect, to be adjusted by mutual agreement if the concession shall have been conditional.

ARTICLE IV.

No higher nor other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States than are, or shall be, payable upon the like articles being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are, or may be, payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed upon the exportation or importation of any articles

the growth, produce, or manufacture of the territories of the United States or the Republic of Nicaragua, to or from the said territories of the United States, or to or from the Republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V.

No higher or other duties or payments, on account or tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels; nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

The same duties shall be paid on the importation into the territories of the Republic of Nicaragua of any article being the growth, produce, and manufacture of the territories of the United States, whether such importations shall be made in Nicaraguan vessels or in vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, whether such importation shall be made in United States or Nicaraguan vessels.

The same dues shall be paid and the bounties and drawbacks allowed on the exportation to the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States, whether such exportation shall be made in Nicaraguan or United States vessels; and the same duties shall be paid and the same bounties and drawbacks allowed on the exportation of any articles being the growth, produce, or manufacture of the Republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICLE VII.

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the Republic of Nicaragua to manage their own affairs themselves, as permitted by the laws, or to commit them to the management of whomsoever they please, as broker, factor agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor to pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into, or exported from, the Republic of Nicaragua, as they shall see good, observing the laws and established customs of the country.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the Republic of Nicaragua under the same conditions.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property,

and shall have free and open access to the courts of justice in said countries, respectively, for the prosecution and defense of their just rights; and they shall be at liberty to employ, in all cases, the advocates, attorneys, or agents, of whatever description, whom they may think proper and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

ARTICLE VIII.

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of the merchandise, goods, and effects; the succession to personal estates, by will or otherwise; and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties, and rights as native citizens; and they shall not be charged, in any of these respects, with any higher imposts or duties than those which are, or may be, paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union or within the Republic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate.

But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the state in which it may be situated, there shall be accorded to the said heir, or other successor, such term as the laws of the state will permit to sell such property; he shall be at liberty at all times to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which, in a similar case, would be paid by an inhabitant of the country in which the real estate may be situated.

If any citizen of either of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul or other diplomatic agent of the nation to which the deceased belonged (or the representative of such minister or consul or other diplomatic agent, in case of absence), shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, given proper notice of such nomination to the authorities of the country.

ARTICLE IX.

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with the natives of the country, hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the Republic of Nicaragua, and the citizens of Nicaragua residents in the United

States, shall be exempted from all forced (or compulsory) military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged in the same manner as the citizens of each nation to pay lawful taxes, municipal and other modes of imposts and ordinary charges, loans, and contributions in time of peace (as the citizens of the country are liable, in just proportion to the property owned).

3. Nor shall the property of either, of any kind, be taken for any public object, without full and just compensation to be paid in advance; and

4. The citizens of each of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

ARTICLE X.

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party.

But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent, and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities whatever as are, or shall be, allowed to the agents of the same rank belonging to the most favored nation; and, in like manner, the diplomatic agents and consuls of the United States in Nicaragua, shall enjoy, according to the strictest reciprocity, whatever privileges, exemptions, and immunities that are, or may be, granted in the Republic of Nicaragua to the diplomatic agents and consuls of the most favored nations.

ARTICLE XI.

For the better security of commerce between the citizens of the United States and the citizens of Nicaragua it is agreed that if at any time any interruption of friendly intercourse or any rupture should unfortunately take place between the two high contracting parties, the citizens of either, who may be within the territories of the other, shall, if residing on the coast, be allowed six months, and if in the interior, a whole year, to wind up their accounts and dispose of their property; and a safe conduct shall be given to them to embark at any port they themselves may select. Even in case of a rupture all such citizens of either of the high contracting parties, who are established in any of the territories of the other in trade or other employment, shall have the privilege of remaining and of continuing such trade or employment without any manner of interruption, in the full enjoyment of liberty and property, so long as they behave peacefully and commit no offenses against the laws, and their goods and effects, of whatever description they may be, whether in their own custody or intrusted to individuals, or to the state, shall not be liable to seizure or sequestration nor to any other charges or demands than those which may be made upon the like effects or property belonging to the native citizens of the country in which such citizens may reside. In the same case, debts between

individuals, property out in public funds, and shares of companies, shall never be confiscated nor detained.

ARTICLE XII.

The citizens of the United States and the citizens of the Republic of Nicaragua, respectively, residing in any of the territories of the other party shall enjoy in their houses, persons, and property the protection of the government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested, or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, agreeably to the system of tolerance established in the territories of the high contracting parties, provided they respect the religion of the nation in which they reside, as well as the constitution, laws, and customs of the country.

Liberty shall be also granted to bury the citizens of either of the two high contracting parties who may die in the territories aforesaid, in burial places of their own, which, in the same manner, may be freely established and maintained; nor shall the funerals or sepulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity and given all favor and protection for repairing their vessels, procuring provisions and placing themselves in all respects in a condition to continue their voyage without obstacle or hindrance of any kind.

ARTICLE XIV.

The Republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific Oceans through the territories of that republic on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua to be used and enjoyed, in the same manner and upon equal terms by both republics and their respective citizens, the Republic of Nicaragua, however, reserving its rights of sovereignty over the same.

ARTICLE XV.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua on its part undertakes to establish two free ports, one at each of the extremities of the communications aforesaid on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended *bona fide* for transit across the said routes of communication and not for consumption, within the Republic of Nicaragua.

The United States shall also be at liberty to carry troops and munitions of war in their own vessels or otherwise to either of the said free ports, and shall be entitled to their conveyance between them without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation on either of said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons or property of citizens or subjects of the United States or of any other country across the said routes of communication than are or may be imposed on the persons and property of citizens of Nicaragua. And the Republic of Nicaragua recognizes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI.

The Republic of Nicaragua agrees that, should it become necessary at any time to employ military force for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but, upon failure to do this for any cause whatever, the Government of the United States may, after notice to the Government of Nicaragua, or to the minister thereof in the United States, employ such force, for this and for no other purpose; and when the necessity ceases, such force shall be immediately withdrawn.

ARTICLE XVII.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discrimination in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandises, or other articles.

The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the Republic of Nicaragua.

ARTICLE XVIII.

And it is further understood and agreed that in any grants or contracts which may hereafter be made or entered into by the Government of Nicaragua having reference to the interoceanic routes above referred to, or either of them, the rights and privileges granted by this convention to the Government and citizens of the United States shall be

fully protected and reserved. And if any such grants or contracts now exist of a valid character, it is further understood that the guarantee and protection of the United States stipulated in Article XV of this treaty shall be held inoperative and void until the holders of such grants or contracts shall recognize the concessions made in this treaty to the Government and citizens of the United States with respect to such interoceanic routes, or either of them, and shall agree to observe and be governed by those concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement, said guarantee and protection shall be in full force; provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

ARTICLE XIX.

After ten years from the completion of a railroad or any other route of communication through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than fifteen per cent. per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of fifteen per cent. per annum.

ARTICLE XX.

It is understood that nothing contained in this treaty shall be construed to affect the claim of the government and citizens of the Republic of Costa Rica to a free passage by the San Juan River for their persons and property to and from the ocean.

ARTICLE XXI.

The two high contracting powers, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of twenty years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the twenty years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged, at Washington City, within the space of nine months, or sooner, if possible.

In witness whereof the respective plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done at the city of Washington, this sixteenth of November, in the year of our Lord one thousand eight hundred and fifty-seven.

LEWIS CASS.
A. J. DE YRISARRI.

La República de Nicaragua y los Estados Unidos de América, desearios de mantener entre sí las mejores relaciones de amistad, con el objeto de promover las del comercio de sus respectivos ciudadanos, y de hacer algun arreglo mútuo con respecto á una comunicacion entre los Océanos Atlántico y Pacífico, por el río San Juan de Nicaragua, ó por cualquiera de los lagos de Nicaragua ó Managua, ó por ambos, ó por cualquiera otra vía al través de los territorios de dicha República de Nicaragua, han convenido en concluir un tratado de amistad, comercio y navegacion, para lo cual han nombrado los Plenipotenciarios respectivos, á saber:

La República de

Nicaragua al Señor Don Antonio José de
Mazarini, su Encargado Extraordinario y Ministro
Plenipotenciario en los Estados Unidos de A-
merica:

Y el Presidente de los Estados Unidos de
America al Señor Lewis Cass, Secretario de Es-
tado de los Estados Unidos; quienes, despues
de haberse comunicado sus plenos poderes, y ha-
bidolos en debida y propia forma, han conve-
nido en, y concluido los articulos siguientes:

Articulo 1º

Habrá amistad perpetua entre el Gobierno
de la Republica de Nicaragua, y sus ciuda-
danos, por una parte, y los Estados Unidos.

y sus ciudadanos, por la otra.

Artículo 2º

Hubiera recíproca libertad de comercio entre todos los territorios de la República de Nicaragua, y los territorios de los Estados Unidos. Los ciudadanos de los dos países, respectivamente, tendrán plena libertad de llegar francos y seguramente, con sus buques y cargamentos, á todos los lugares, puertos y ríos en los territorios mencionados, á los cuales se permitiera, ó se permitiere llegar á otros extranjeros, entrar en los mismos, y permanecer y residir en cualquiera parte de ellos, respectivamente, así como alquilar y ocupar casas y almacenes para objetos de su comercio, en general, los comer-

ciontes y traficantes de cada nacion, respectivamente, gozaran de la mas completa proteccion y seguridad para su comercio, sujetos siempre a las leyes y estatutos de los dos paises, respectivamente.

De la misma manera, los respectivos buques de guerra, y paquetes corrios de los dos paises, tendran libertad de llegar franca y seguramente a todas las radas, rios y lugares a donde se permita, o se permitiere la llegada de otros buques de guerra, y paquetes extranjeros; de entrar en los mismos, anclarse, permanecer en ellos, y reequiparse, sujetos siempre a las leyes y estatutos de los dos paises, respectivamente.

No se comprende el privilegio de

hacer el comercio costanero, en el derecho de entrar en los lugares, puertos y rios mencionados, en cuyo comercio solo pueden emplearse buques nacionales del pais en que se hace dicho comercio.

Artículo 3^o

Siendo la intencion de las dos altas partes contratantes, obligarse por los artículos precedentes a tratarse bajo el pie de la nacion mas favorecida, convienen, por el presente, en que cualquier favor, privilegio o inmunidad, en materias de comercio y navegacion que una de dichas partes contratantes haya concedido, o pueda conceder en adelante, a los subditos o ciudadanos de otro estado, se harán exten-

sivos á los subditos de la otra parte, gratuitamente, si las concesiones en favor de aquella u otra nacion hubiese sido gratuita, ó en cambio de una compensacion, de un valor y efectividad aproximado como sea posible, en que se convenga por mutuo acuerdo, si las concesiones hubiese sido condicional.

Artículo 4^o

No se impondrán otros ó mas altos derechos sobre la importacion en los territorios de la Republica de Nicaragua de cualquier artículo que sea fruto, producto natural ó manufacturado de los Estados Unidos, y no se impondrán otros, ó mas altos derechos

sobre la importacion en los territorios de los Estados Unidos, de cualquier artículo que sea fruto, producto natural ó manufacturado de la Republica de Nicaragua, que los que se exijan ó exijeren por iguales artículos que sean frutos, productos naturales ó manufacturados de cualquier otro pais extranjero; ni se impondrán otros ó mas altos derechos ó gravámenes en los territorios de ninguna de las dos altas partes contratantes sobre la esportacion de cualesquiera artículos á los territorios de la otra, que los que se exijan ó se exijeren por la esportacion de iguales artículos para cualquier otro pais extranjero; ni se establecerá prohibicion alguna sobre la importacion ó esportacion de cualesquiera artículos, que

dean frutos, productos naturales o manufacturados de los territorios de la República de Nicaragua o de los Estados Unidos, a los territorios de la República de Nicaragua; o de dichos territorios de la República de Nicaragua, a los territorios de los Estados Unidos; o de los territorios de dichos Estados, que no sea igualmente extensiva a las otras naciones.

Artículo 5º

No se impondrán otros o mas altos derechos por toneladas, farras, puertos, o empujamentos de piráticos, salvamento en caso de avería o naufragio, o impuestos locales de cualquiera clase en ninguno de los puertos de los Estados Unidos, sobre los buques de Nicaragua, que los que deben pagarse por buques de los Es-

Unidos.

Artículo 7^o

Todos los comerciantes, capitanes de buques, y otros, ciudadanos de la República de Nicaragua, tendrán plena libertad, en todos los territorios de los Estados Unidos, de manejar sus propios negocios por sí mismos, como se permita por las leyes, o de encargar del manejo de ellos a quienquiera que tengan por conveniente, con el carácter de corredor, factor, agente o intérprete; ni se les obligará a emplear ninguna otra persona con aquel carácter, que las que son empleadas por los ciudadanos de los Estados Unidos; ni a pagarles otros salarios o remuneraciones que los que en iguales casos sean pagados por ciudadanos de los Estados Unidos; y en todos casos se concederá

absoluta libertad al comprador y al vendedor, francos
contratos y fijos el precio de cualesquiera géneros, ef-
fectos ó mercancías importadas á los Estados Uni-
dos, ó exportadas de ellos, como mejor les parezca, obser-
vando las leyes y costumbres establecidas en el país.

Los ciudadanos de los Estados Unidos gozarán
de los mismos privilegios en los territorios de Nica-
ragua, bajo las mismas condiciones.

Los ciudadanos de las altas partes contratantes,
recíprocamente, recibirán y gozarán plena y
perfecta protección para sus personas y propie-
dades, y tendrán libre y franco acceso á los tribu-
nales de justicia en ambos países, respectivamente,
para la prosecución y defensa de sus justos de-
rechos; y tendrán libertad de emplear, en todos
casos, los abogados, procuradores ó agentes, de-

cualquiera clase, que les parezcan convenientes;
y gozarán, en este particular, de los mismos
derechos y privilegios que los ciudadanos
naturales.

Artículo 8º

Con todo lo que hace relación a la policía de
los puertos; a la carga y descarga de buques; a la
seguridad de las mercancías, jéneros y efectos; a la
sucesión de bienes muebles, por testamento, o de otro
modo; y a la disposición de bienes muebles, de to-
da especie y denominación, por venta, donación,
cambio, testamento, o de cualquiera otra manera;
como también a la administración de justicia;

los ciudadanos de las dos altas partes contra-
tantes gozarán recíprocamente de los mismos pri-
vilegios, libertades y derechos que los ciudada-
nos naturales; y no se les cargarán, en nada de
lo que tenga relación con esto, otros impuestos o de-
rechos que los que se paguen, o deban pagarse,
por los ciudadanos naturales, sometiéndose, por su
puesto, á las leyes locales, y á las regulaciones
de cada país, respectivamente.

Las estipulaciones que preceden se ha-
rán extensivas á los bienes raíces situados dentro
de los Estados de la Unión Americana, ó de la
República de Nicaragua, en que se permita á
los extranjeros poseer ó heredar fincas raíces.

Pero en caso que algunos bie-
nes raíces situados dentro de los territorios de

una de las partes contratantes, recae en un ciudadano de la otra parte, á quien, por su calidad de extranjero, no le fuere permitida poseer dicha propiedad en el Estado en que pueda estar situada, se le acordará á dicho heredero, u otro sucesor, el término que las leyes del Estado le permitian para vender dicha propiedad; podrá en todas épocas retirar y esportar los productos de esta venta sin dificultad, y sin pagar al Gobierno ningunos otros impuestos que los que, en casos semejantes, se pagarían por un habitante del país en donde estén situadas las fincas raíces.

Si algun ciudadano de una de las dos altas partes contratantes muriese sin dejar testamento, en cualquiera de los territo-

rios de la otra, el Ministro, ó Consul, u otro agente diplomático de la nación á la cual pertenecía el difunto, (ó el Representante de dicho Ministro, Consul, u otro agente diplomático, en caso de ausencia), tendrá el derecho de nombrar curadores que se hagan cargo de la propiedad del difunto, hasta donde lo permitan las leyes del país, en beneficio de los herederos legales y de los acreedores del difunto, dando noticia oportuna de tal nombramiento á las autoridades del país.

ción, natural o artificial, ya sea por tierra o por agua, que ahora exista, o que pueda existir o ser construída en adelante, bajo la autoridad de Nicaragua, para que pueda usarse y gozarse de la misma manera, y bajo iguales términos, por ambas Repúblicas, y sus respectivos ciudadanos; reservándose, sin embargo, la República de Nicaragua, su derecho de soberanía sobre las mismas.

Artículo 15º

Los Estados Unidos convienen en extender su protección a todas aquellas vías de comunicación que se acaban de mencionar; y a garantizar su neutralidad. También convienen en emplear su influencia con otras naciones para inducirlos a garantizar iguales neutralidad y protección.

Y la República de Nicaragua por su parte, se

compromete á establecer dos puertos libres, uno en cada
extremo de las estremidades de las comunicaciones menciona-
das, en los Océanos Atlántico y Pacífico. En estos puer-
tos no se impondrán ó exigirán por el Gobierno de
Nicaragua ningunos derechos de tonelada, ni otros, so-
bre los buques de los Estados Unidos, ó sobre efectos ó
mercancías pertenecientes á ciudadanos ó súbditos de
los Estados Unidos, ó sobre los buques ó efectos de
cualquier otro país, destinados bona fide para el trán-
sito á través de dichas vías de comunicación, y no
para el consumo dentro de la República de Nicara-
gua. Los Estados Unidos tendrán tambien libertad
de llevar tropas y municiones de guerra, en sus pro-
pios buques, ó de otro modo, á cualquiera de dichos
puertos libres, y tendrán derecho á su transporte entre
dichos puertos, sin obstáculo por las autoridades

de Nicaragua, y sin que se cobren ningunas cargas
ó derechos de pasaje, cualesquiera que sean, por el
transporte en ninguna de dichas vías de comunica-
ción. Y no se impondrán otros ó mas altos impus-
tos sobre la conducción ó tránsito de las personas
y de las propiedades de ciudadanos ó súbditos de
los Estados Unidos ó de cualquier otro país al trá-
vés de dichas vías de comunicación, que los que
han sido ó sean impuestos sobre las propiedades
y las personas de ciudadanos de Nicaragua. Y
la República de Nicaragua reconoce el derecho del
Administrador General de correos de los Estados
Unidos de celebrar contratos con cualesquiera indi-
viduos ó compañías para el transporte de las ma-
las de los Estados Unidos por dichas vías de co-
municación, ó por cualesquiera otras vías á tra-

res del Istmo, à su discrecion, en baltijas conadas,
el contenido de las cuales no sea destinado para dis-
tribucion dentro de dicha Republica, libres del esta-
blecimiento de todos impuestos ó derechos por el
Gobierno de Nicaragua: pero esta libertad no debe
interpretarse en el sentido de permitir à dichos in-
dividuos ó companias, el transporte de pasajeros
ó cargas, en virtud del derecho de transportar
las malas.

Artículo 16º

La Republica de Nicaragua conviene en que,
si fuese necesario en cualquier tiempo emplear
fuerzas militares para la seguridad y proteccion
de las personas y propiedades que pasan por

cualquiera de las vías mencionadas, empleará la fuerza necesaria con tal objeto; pero si dejase de hacerlo por cualquiera causa, el Gobierno de los Estados Unidos, después de haber dado noticia al Gobierno de Nicaragua, o a su Ministro en los Estados Unidos, puede emplear tal fuerza para este objeto, con exclusión de cualquier otro; y cuando cese la necesidad, aquella fuerza será retirada inmediatamente.

Artículo 17^o

Se entiende, sin embargo, que los Estados Unidos, al acordar protección a las referidas vías de comunicación, y al garantizar su neutralidad y seguridad, siempre tiene la intención de que la protección y garantía sean concedidas condicio-

nalmente, y pueden ser retiradas si los Estados Unidos creyesen que las personas ó la compañía que las emprendan ó manejen, adoptan ó establecen tales regulaciones sobre el tráfico por ellas, que sean contrarias al espíritu y á la intención de este tratado, ya porque hagan injustas discriminaciones en favor del comercio de alguna nación ó de algunas naciones, sobre el comercio de otras naciones ó de otras naciones, ó porque impongan exacciones opresivas, ó impuestos excesivos sobre las malas, pasajeros, bagues, efectos, productos, mercancías, u otros artículos. Las mencionadas protecciones y garantías no serán, sin embargo, retiradas por los Estados Unidos, sin dar noticia con seis meses de anticipación á la República de Nicaragua.

cion á través del territorio de Nicaragua, del Atlántico al Pacífico, ninguna compañía que haya construido, ó que esté en posesión de dicha vía, podrán nunca dividir, directa ó indirectamente, por medio de emisiones de nuevas acciones, pago de dividendos, ó de otro modo, mas de quince por ciento por año, ó en aquella proporción, á sus accionistas, por impuestos colectados en aquella vía; pero cuando se descubra que estos impuestos rinden una utilidad mayor que ésta, se reducirán á la regla fija de quince por ciento por año.

Artículo 20º

Se entiende que nada de lo contenido en este tratado, debe interpretarse con ó que afecta la

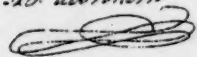
pretensiones del Gobierno de Costa Rica y de sus
ciudadanos, al paso libre, para sus personas
y propiedades por el río San Juan al Mar, y
vice versa.

Artículo 21^o

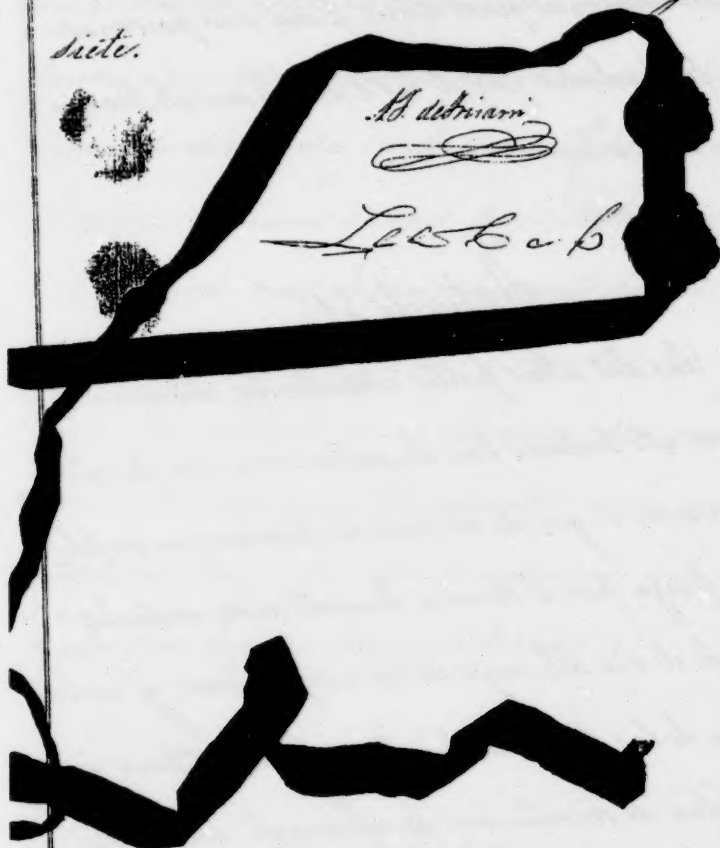
Las dos altas partes contratantes, despus de
haber este tratado tan duradero como sea posible,
convienen en que dicho tratado permanezca en ple-
na fuerza por el término de veinte años, contados
desde el día del canje de las ratificaciones; y cada
una de las partes tendrá el derecho de notificar a
la otra de su intención de reformarlo, alterarlo, o
terminarlo, por lo menos doce meses antes de la
expiración de los veinte años; si no se diese esta
noticia, este tratado quedará obligatorio después

el diez y seis de noviembre del año de Nuestro
Señor de mil ochocientos cincuenta y
siete.

M. de Briani



Leob. b



Annex 11

**COSTA RICA-NICARAGUA TREATY OF PEACE, FRIENDSHIP,
ALLIANCE AND COMMERCE (MORA-MARTÍNEZ), RIVAS,
PREAMBLE AND ARTICLES 18, 19, 20, 30 APRIL 1858**

**SOURCE: J. M. BONILLA, *COLECCIÓN DE TRATADOS
INTERNACIONALES* (MANAGUA: TIPOGRAFÍA
INTERNACIONAL, 1909).
ENGLISH TRANSLATION BY COSTA RICA**

TRANSLATION**Costa Rica-Nicaragua Treaty of Peace, Friendship, Alliance and Commerce (Mora-Martínez), Rivas, 30 April 1858**

"We, Juan Rafael Mora, President of the Republic of Costa Rica, and Tomás Martínez, President of the Republic of Nicaragua...willing to establish, over solid bases of justice and reciprocity, relations of neighbourliness, friendship, alliance and commerce, that consolidate the sentiments of fraternity...have considered of benefit to our respective peoples to conclude a Treaty that assures the achievement of such important purposes..."

...

Article 18: "Land border commerce will have free traffic, and neither Costa Ricans in Nicaragua nor Nicaraguans in Costa Rica shall pay for the introduction of the natural growth or own manufacture..."

...

Article 19: "The introduction by land is forbidden, under penalty of confiscation, of the foreign products and effects of one Republic into the other...Such foreign effects...."

...

Article 20: "...but the effects and merchandise that in said vessels are introduced..."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA



— MANAGUA —

TIPOGRAFIA INTERNACIONAL—5ª CALLE SUR NUM. 11

1909



TRATADO

—DE—

Paz, Amistad, Alianza
y Comercio

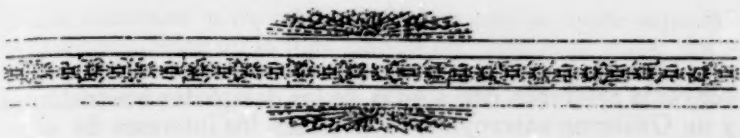
ENTRE

NICARAGUA Y COSTA RICA



MARTINEZ * MORAN

1858



Nos, Juan Rafael Mora, Presidente de la República de Costa Rica, y Tomás Martínez, Presidente de la República de Nicaragua: en uso de la respectiva autoridad que nos confieren las leyes de los dos países, cuyo régimen nos está encomendado: deseosos de cimentar, bajo bases sólidas de justicia y reciprocidad, relaciones de vecindad, de amistad, de alianza y de comercio, que consoliden los sentimientos de fraternidad que desde mucho tiempo les unen por la identidad de origen, religión, idioma y costumbres: atendiendo á los graves peligros á que se halla expuesta la seguridad é independencia de ambas Repúblicas, y cuyos peligros se convierten en riesgos inminentes cada vez que se altera entre ellas la buena inteligencia que es necesario conservar invariable, para que haya unión, fuerza y poder contra toda extraña agresión; hemos creído muy provechoso á los respectivos pueblos concluir un Tratado que asegure el logro de tan importantes objetos, como consecuencia del de límites, firmado en San José de Costa Rica el día quince del corriente, y canjeado en esta ciudad el día veintisiete; y hemos ajustado y celebrado el siguiente

TRATADO DE PAZ,

AMISTAD, ALIANZA Y COMERCIO.

Artículo 1º

Habrá paz y perpetua alianza entre las Repúblicas de Costa Rica y Nicaragua, y amistad y buena armonía entre sus habitantes respectivos, como miembros de una sola familia, no obstante la disolución del pacto federativo que los

Artículo 16

Para alojar el riesgo de que por cualquiera contrata ó convenio celebrado con alguna de las dos partes contratantes y un Gobierno extranjero, se afectasen los intereses de alguna de las dos Repúblicas que no hubiera tenido parte en dicho convenio, se establece: que ni el Gobierno de la República de Costa Rica, ni el Gobierno de la República de Nicaragua puedan en lo sucesivo, sin el mutuo consentimiento de ambos, comprometerse en arreglos que puedan dañar los derechos é intereses de la una, reconocidos por la otra República.

Artículo 17

Se establece como ley internacional para las Repúblicas de Costa Rica y Nicaragua:

PRIMERO.

Que el botín ó la presa hecha al enemigo común pertenecerá á la República en que se haga; y los prisioneros de guerra serán juzgados por las leyes de la República donde sean capturados;

SEGUNDO.

Que el botín ó la presa hecha en territorio común será de las Repúblicas que tienen comunidad territorial, y el que se haga en las aguas de ambos Océanos, pertenecerá por iguales partes á las Repúblicas que aliadas hacen la guerra; y

TERCERO.

Que por el derecho de *postliminio* serán devueltas á cada una de dichas Repúblicas ó á sus ciudadanos las propiedades suyas que en la guerra les hubiesen sido tomadas, sin que haya responsabilidad por las pérdidas ó deterioros durante la campaña; pero si uno de los dos países empleare dichas propiedades para usos de interés común, los dos reconocerán su valor.

Artículo 18

El comercio fronterizo por la vía de tierra será de libre tráfico, y ni los costarricenses en Nicaragua, ni los nicaragüenses en Costa Rica, pagarán por la introducción de los

frutos naturales y de propia industria que no estén especialmente prohibidos en la otra República, ni algunos otros derechos que los municipales, con entera igualdad á los que por los mismos artículos se exigen á los naturales.

Artículo 19

Se prohíbe la introducción por tierra, bajo pena de comiso, de frutos y efectos extranjeros de la una á la otra República; pero los respectivos Gobiernos podrán dar licencia ocasionalmente al que la solicite, y en este caso el introduuctor es obligado á pagar los derechos establecidos por las leyes aduaneras de la República á donde se introducen.

Dichos efectos extranjeros no caerán en comiso, cuando por causa de guerra, ú otra repentina, se trasladen de una á otra República; en cuyo caso pueden dejarse en depósito, ó pagarse los derechos correspondientes, si se les quiere expender, pudiendo los dueños de ellos, si lo estiman conveniente, retornarlos al lugar de su origen, con guía de la autoridad respectiva.

Artículo 20

Los buques de cualquiera clase y porte de la República de Costa Rica, y los de igual naturaleza de la República de Nicaragua, no pagarán en sus respectivos puertos, otros ó más altos derechos que los de fero y hospital, entendiéndose que esta estipulación no altera lo establecido en el Tratado de límites, con relación á los puertos de San Juan del Norte y de Salinas; pero los efectos y mercaderías que en dichos buques se introduzcan, deben sufrir el aforo con arreglo á las leyes, y pagar los derechos de aduana vigentes en cada una de las Repúblicas.

Artículo 21

Para que las transacciones mercantiles entre ambas Repúblicas, ó con las demás de Centro América, así como con las Naciones extranjeras, se verifiquen fácilmente, las partes contratantes se comprometen á uniformar en lo posible y dentro del más breve término, las leyes de aduana, las pesas y medidas, y el valor relativo é intrínseco de la moneda nacional y de la extranjera, y á procurar el más perfecto acuerdo sobre este punto con los demás Gobiernos de la unión.

Annex 12

NICARAGUA-COSTA RICA-F. BELLY, CONVENTION
RELATIVE TO THE CONCESSION FOR AN INTER-OCEANIC
CANAL BY THE RIVER SAN JUAN AND THE LAKE
OF NICARAGUA (MORA-MARTÍNEZ-BELLY), RIVAS,
ARTICLES 14 (FRENCH, SPANISH AND ENGLISH);
ARTICLES 4 AND 25 (FRENCH), 1 MAY 1858

SOURCES : SPANISH VERSION : ARCHIVES DIPLOMATIQUES,
MINISTÈRE DES AFFAIRES ÉTRANGÈRES, PARIS.
REPUBLIC OF FRANCE. FRENCH VERSION : F. BELLY,
CARTE D'ÉTUDE POUR LE TRACÉ ET LE PROFIL
DU CANAL DE NICARAGUA (PARIS : CHEZ DALMONT ET DUNOD,
ÉDITEURS, 1858), DOCUMENT II, PP. 10, 21, 23 AND 26.
ENGLISH TRANSLATION BY COSTA RICA

TRANSLATION

Nicaragua-Costa Rica-F. Belly, Convention relative to the Concession for an Inter-oceanic Canal by the River San Juan and the Lake of Nicaragua, (Mora-Martínez-Belly), Rivas, 1 May 1858

...

Article 14: "As a special provision, all the vessels of the concessionary Company, whichever may be their flags, shall enjoy during ten years transit franchises, providing they do not transport any merchandise for exportation."

...

Guatemala).

1858 — 1859
Août — à — Décembre).



M. Botmilion).

**MINISTERE
DES
AFFAIRES ETRANGERES**

ARCHIVES DIPLOMATIQUES

lo mas conveniente para la
 igualmente a los de la misma
 No es alguna prerrogativa que
 esta ley se refiera de de de de
 a diez paises por la medida
 (1000 Kilos) y a las de la
 portan. La compaña no podria
 jamas en una sola, pero se
 al de los de de de de de de
 si el de los de de de de de de
 la de de de de de de de de
 respecto con los de de de de de de
 Art. 14. Para medida especial, todos
 los buques de la compaña de de de
 anaria, cualquiera que sea su
 por de de de de de de de de
 de diez años de la de de de de
 del de de de de de de de de
 de de de de de de de de de
 de de de de de de de de de
 Art. 15. No se podria establecer en
 puerto alguno bajo el de de de de
 de de de de de de de de de de de
 las de de de de de de de de de de
 por de de de de de de de de de de
 por de de de de de de de de de de
 Art. 16. La compaña de de de de de de
 de de de de de de de de de de de
 de de de de de de de de de de de
 de de de de de de de de de de de

CARTE D'ÉTUDE

POUR LE TRACÉ ET LE PROFIL.

DE

CANAL DE NICARAGUA

PAR M. THOMÉ DE CAMOND.

INGÉNIEUR CIVIL.

PRÉCÉDÉ

DE DOCUMENTS PUBLIÉS SUR CETTE QUESTION

PAR

M. FÉLIX BELLY.

PARIS,

CHEZ DALMONT ET DUNOD, ÉDITEURS.

LIBRAIRES DES CORPS IMPÉRIAUX DES PONTS ET CHAUSSEES ET DES MINES.

Quai des Augustins, 49.

—
1858

DOCUMENT II.**CONVENTION DE RIVAS**

CONCLUE ENTRE LES GOUVERNEMENTS DES ÉTATS SOUVERAINS DE NICARAGUA ET DE COSTA-RICA ET M. FÉLIX BELLY, DE PARIS, RELATIVE A LA CONCESSION D'UN CANAL INTER-OcéANIQUE PAR LA RIVIÈRE SAN-JUAN ET LE LAC DE NICARAGUA.

Sur la proposition de M. Félix Belly, et pour mettre un terme aux dissentiments particuliers qui les ont divisés jusqu'ici, ainsi qu'à la situation incertaine faite à l'Amérique centrale par les traités existants, les deux gouvernements de Nicaragua et de Costa-Rica sont convenus de s'engager solidairement pour la concession d'un canal inter-océanique à travers l'isthme de Nicaragua à une Compagnie internationale, que M. Félix Belly et ses associés se proposent de constituer sur les bases les plus larges et sans distinction de nationalités ;

Et comme cette concession nouvelle doit contenir le règlement de plusieurs questions politiques et économiques d'une haute importance pour les deux gouvernements de Costa-Rica et de Nicaragua, comme aussi pour donner à M. Félix Belly un témoignage personnel de la considération que ses travaux lui ont acquise dans toute l'Amérique centrale, les chefs suprêmes de

ART. 3.

Les concessionnaires auront le droit de choisir tel tracé que leurs ingénieurs jugeront le plus avantageux et le plus praticable, pourvu que ce tracé remonte le Rio San-Juan dans toute sa longueur, traverse le lac de Nicaragua et aboutisse au Pacifique entre les deux points extrêmes de Salinas et de Realejo.

ART. 4.

Dans le cas où le tracé partant de l'embouchure de la Sapoa sur le lac de Nicaragua, et aboutissant à la baie de Salinas sur le Pacifique, serait reconnu praticable par les ingénieurs, ce tracé sera choisi de préférence par la Compagnie pour aboutir du lac de Nicaragua au Pacifique, et par le fait même, le canal deviendra dans toute sa longueur la limite définitive des États de Nicaragua et de Costa-Rica. Dans le cas contraire, cette limite restera ce qu'elle est aujourd'hui, sauf règlement ultérieur.

ART. 5.

Il est accordé aux concessionnaires en toute propriété, pour en prendre possession aussitôt que les travaux seront commencés, une lieue française de terrains de chaque côté du parcours du canal, quel que soit l'État à qui ces terrains appartiennent, à la charge par les concessionnaires de faire cadastrer et délimiter à leurs frais cette double bande de 4 kilomètres de largeur.

ART. 6.

Pour la traversée du lac de Nicaragua, la courbe la plus courte sera considérée comme l'un des côtés du canal, et deviendra dès lors la propriété des concessionnaires sur une profondeur d'une

Pacifique et sur l'Atlantique sont dès aujourd'hui déclarés ports francs, et jouiront à perpétuité de toutes les immunités que ce titre comporte.

ART. 12.

Un phare de premier ordre devra être élevé aux frais des deux Républiques, à chaque tête du canal, six mois avant le moment de son ouverture, pour que la déclaration puisse en être faite au commerce du monde en temps opportun; mais, si les deux républiques en font la demande, la Compagnie se chargera de la construction de ces phares, sauf à se couvrir plus tard de cette avance sur les 8 p. 0/0 affectés à leurs Trésors.

ART. 13.

Les contractants proclament hautement que le canal sera ouvert au même titre à tous les pavillons, et qu'une taxe uniforme et la plus modérée possible frappera également toutes les marchandises, de quelque provenance qu'elles soient. Cette taxe, dès aujourd'hui, est fixée à 10 fr. par tonneau maritime (1,000 kilogrammes), et à 60 fr. par personne. La Compagnie ne pourra jamais l'augmenter; mais elle se réserve de la réduire plus tard, si l'intérêt du commerce du monde se concilie, sous ce rapport, avec son propre intérêt.

ART. 14.

Par mesure spéciale, tous les bâtiments de la Compagnie concessionnaire, quel que soit leur pavillon, jouiront pendant dix ans de la franchise du passage, pourvu qu'ils ne transportent aucune marchandise d'exportation.

ART. 24.

Tant que cette garantie n'aura pas été officiellement proclamée par la publication du traité intervenu à cet effet, l'entrée du canal sera rigoureusement interdite à tout navire de guerre, et les États riverains pourront adopter, de concert avec la Compagnie, telles mesures qu'ils jugeront nécessaires pour faire respecter cette interdiction.

ART. 25.

Dès que la neutralité du canal aura été solennellement garantie par un acte émané des trois gouvernements de France, d'Angleterre et des États-Unis, l'entrée pourra en être accordée à des navires de guerre par une délibération unanime de ces trois puissances, pourvu que les gouvernements de Nicaragua et de Costa-Rica n'y mettent aucune opposition, et sauf règlement préalable avec la Compagnie concessionnaire.

ART. 26.

Par mesure exceptionnelle et pour sauvegarder les intérêts et la responsabilité d'une Compagnie dont la direction est toute française, le Gouvernement français aura le droit d'entretenir, pendant toute la durée des travaux, soit dans les eaux du canal, soit dans le lac de Nicaragua, deux bâtiments de guerre stationnaires (1).

(1) Cette clause qui a dû être introduite, en raison de la qualité de citoyen français du concessionnaire, plaçait naturellement son entreprise sous la protection de son propre Gouvernement. Elle est devenue sans objet depuis que les trois Gouvernements des États-Unis, d'Angleterre et de France se sont mis d'accord pour protéger de concert la neutralité du canal de Nicaragua.

Annex 13

UNITED STATES-NICARAGUA TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION (LAMAR-ZELEDÓN),
MANAGUA, PREAMBLE, ARTICLES II AND XX,
16 MARCH 1859

SOURCES: ENGLISH VERSION: C. L. WIKTOR,
*UNPERFECTED TREATIES OF THE UNITED STATES
OF AMERICA, VOL. 2, 1856-1882* (NEW YORK:
OCEANA PUBLICATIONS, 1976), PP. 157-159, 166.
SPANISH VERSION: US NATIONAL ARCHIVES,
WASHINGTON, *UNPERFECTED TREATY SERIES X-2*

UNPERFECTED TREATIES
OF THE
UNITED STATES OF AMERICA

1776-1976



EDITED AND ANNOTATED BY

CHRISTIAN L. WIKTOR

VOLUME 2

1856-1882

NICARAGUA

FRIENDSHIP, COMMERCE, AND NAVIGATION

Treaty signed at Managua March 16, 1859
Submitted to the Senate December 21, 1859
Ratification not advised by the Senate March 16, 1860
Returned to the Senate March 26, 1860
Ratification advised by the Senate, with amendments, June 26, 1860
Exchange of ratifications prior to December 27, 1860, advised by the Senate June 27, 1860
Ratified by Nicaragua March 19, 1859
Ratified by Nicaragua, as amended, with a further amendment, March 25, 1861
Resubmitted to the Senate April 15, 1862
Nicaraguan amendment and exchange of ratifications prior to May 9, 1863 advised by the Senate May 9, 1862.
Ratified by the President of the United States July 2, 1862
Treaty file: Unperfected Treaty Series X-2
Printed text: S. Conf. Ex. 84 (C), 36th Cong., 1st sess.

Note: This treaty, also known as the Lamar-Zeledón Treaty, was negotiated by Mirabeau B. Lamar, U.S. Minister Resident to Nicaragua, and Pedro Zeledón, Nicaraguan Minister of Foreign Affairs. It is similar to the Cass-Irisarri Treaty of November 16, 1857, unperfected (UTS W-2) (see Manning, 4 Inter-American Affairs, pp. 629, note 2, 740-741). After a prolonged and somewhat complex procedural history the treaty failed to go into force. The Lamar-Zeledón Treaty, with amendments, was incorporated into the treaty of June 21, 1867 (15 St. 549; TS 257; 10 Bevans 337) (5 Miller 800, footnote 1; Patterson; List of Treaties (1789-1931), p. 15-16, note D; List of Treaties (1789-1934), p. 71, no. 180). The original treaty, in English and Spanish, is in the treaty file (for detailed contents of the file see Carroll). The Senate print can be found in 51 Regular Confidential Documents 1, and subsequent volumes 52 to 55, it is missing in the Senate Records SEN 36B-B8. The present text is reprinted from a Senate print.

TREATY OF FRIENDSHIP AND COMMERCE BETWEEN THE UNITED STATES AND NICARAGUA, SIGNED AT MANAGUA ON THE SIXTEENTH DAY OF MARCH, EIGHTEEN HUNDRED AND FIFTY-NINE.

The undersigned, Mirabeau B. Lamar, minister resident of the United States of America to the republic of Nicaragua, and Pedro Zeledon, secretary of foreign relations of said republic, in order that the most friendly relations may be maintained between their respective countries; that the commerce between the same may be promoted, and that some mutual arrangement may be made with respect to a communication between the Atlantic and Pacific oceans by the river San Juan, and either or both the lakes of Nicaragua or Managua, or by any other route through the territories of said republic of Nicaragua, have deemed it expedient to conclude a treaty of friendship, commerce, and navigation, the first-named minister resident of the United States acting under the hope of receiving the approval of his government, and the secretary of foreign relations of the republic of Nicaragua under the instructions of his own; which said treaty contains the following articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens on the one part, and the government of the republic of Nicaragua and its citizens of the other.

ARTICLE II.

There shall be between all the territories of the United States and the territories of the republic of Nicaragua a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty freely and securely to come with their ships and cargoes to all places, ports, and rivers in the territories aforesaid to which other foreigners are or may be permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively. In like manner the respective ships-of-war and post office packets of the two countries shall have liberty

freely and securely to come to all harbors, rivers, and places to which other foreign ships-of-war and packets are or may be permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood; in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III.

It being the intention of the two high contracting parties to bind themselves by the preceding articles to treat each other on the footing of the most favored nations, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other State, shall be extended to the subjects of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible of a proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE IV.

No higher or other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the republic of Nicaragua of any article being the growth, produce, or manufacture of the United States, than are or shall be payable upon the like articles being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are or may be payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed upon the importation or exportation of any articles the growth, produce, or manufacture of the territories of the United States or the republic of Nicaragua to or from the said territories of the United States, or to or from the republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V.

No higher or other duties or payments on account of tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels, nor in any of the ports of the

ARTICLE XX.

It is understood that nothing contained in this treaty shall be construed to affect the claim of the government and citizens of the republic of Costa Rica to a free passage by the San Juan river for their persons and property to and from the ocean.

ARTICLE XXI.

The two high contracting parties, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of twenty years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the twenty years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged at Washington city, within the space of one year, or sooner if possible.

In witness whereof, the above-named minister resident and secretary of foreign relations have signed the same, and affixed thereto their respective seals.

Done at the city of Managua, this sixteenth day of March, in the year of our Lord one thousand eight hundred and fifty-nine.

MIRABEAU B. LAMAR. [L. S.]
PEDRO ZELEDON. [L. S.]

*Treaty with Nicaragua—
Friendship and Commerce*

*Signed in Managua 16 March 1859,
Ratified by President of U.S. 2 July, 1862.
Ratifications exchanged,
Proclaimed by President of U.S.*

Excmo. Sr. D. Pedro Zeledón
Secretario de Relaciones Exteriores de la
República de Nicaragua, y Meadean
B. Samar Ministro Residente de los
Estados Unidos de América cerca de la
misma República, con el objeto de
que sean mantenidas las amistosas re-
laciones entre sus respectivos Países de que
el comercio entre los mismos sea prom-
ovido, y de que se hagan algunos mi-
nutos arreglos respecto de la comunicación
entre el Océano Atlántico y Pacífico
por el río San Juan y por cual-
quiera de los Puertos de Nicaragua
o Managua, o por ambos, o
por cualquiera otra vía al través
de los territorios de dicha Repu-
blica de Nicaragua, han juzga-

de conveniente concluir un Tratado de Amistad, Comercio y Navegacion, el primeramente nombrado Secretario de Relaciones Exteriores autorizand por su Gobierno, y el Ministro Residente de los Estados Unidos ha go la esperanza de que será ratificado por el suyo cuyo Tratado contiene los articulos siguientes

articulo I.

Hubrá amistad perpetua entre la Republica de Nicaragua y sus ciudadanos por una parte, y los Estados Unidos y sus ciudadanos por la otra.

Art.º II.

Habrà reciproca libertad de comeras entre todos los territorios de la Republica de Nicaragua y los territorios de los Estados Unidos y los ciudadanos de los dos países, respectivamente, tendrán plena libertad de llegar franca y seguramente, con sus bagajes y cargamentos a todos los lugares, puertos y rios en los territorios mencionados, a los cuales se permitas, i se permitas a llegar a otros extranjeros, de entrar en los mismos, y permanecer y residir en cualquier parte de ellos respectivamente; así como de alquilar y comprar casas y almacenos para los objetos de su comercio; y en general los comerciantes y

y traficantes de cada Nación, respectivamente, gozarán de la mas completa protección y seguridad para su comercio, sujetos siempre a las leyes y estatutos de *los* países respectivamente. De la misma manera *los* respectivos buques de guerra, y paquetes correo de *los* países tendrán libertad de llegar franca y seguramente a todos *los* puertos, ríos y lugares, a donde se permitiera, i se permitiere la llegada de *los* buques de guerra y paquetes extranjeros, de entrar en *los* mismos, anclar, permanecer en ellos y reequiparse, sujetos siempre a las leyes y estatutos de *los* países respectivamente.

En el derecho de entrar en *los* lugares, puertos y ríos mencionados no se comprende el privilegio de hacer el comercio estanco, en el cual solamente pueden emplearse buques naciona-

cos del país, en que se haga dicho comercio.

Art.º III.

Siendo la intención de las dos
dichas Partes contratantes, obligarse por el
artículo precedente a tratarse mutuamente
bajo el pie que á la nación
mas favorecida, convienen por el pre-
sente, en que cualquier favor, privile-
gio ó inmunidad en materias de co-
mercio y navegación, que una de
dichas Partes contratantes haya con-
cedido, ó concediere en adelante á los
súbditos ó ciudadanos de otro Estado se
hayan extendidos á los súbditos de la
otra Parte, gratuitamente, si la conce-
sion en favor de aquella otra nación
hubiese sido gratuita, ó en cambio de
una compensacion de un valor y gra-
do tan aproximado como sea posible,

cuando se descubra que es imposible
 rinden una utilidad mayor que esta,
 se reducirán á la regla fija de quin
 ce por ciento por año.

ART. XX.

Se entiende que nada de lo
 contenido en este Tratado, debe interpre
 tarse como que afecta la pretension
 del Gobierno de Costa Rica y de sus
 ciudadanos al paso libre para sus
 personas y propiedades por el Rio de
 San Juan al Oceano y vice-versa

ART. XXI.

Las dos Altas Partes contratantes,
 desuvas de hacer este Tratado tan de
 vados como sea posible, convienen
 en que dicho Tratado permanezca

Annex 14

**FRANCE-NICARAGUA, TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION (SARTIGES-MAXIMO JEREZ),
WASHINGTON, ARTICLE XXXIII, 11 APRIL 1859**

SOURCE: 120 CTS 337

Treaty of Amity, Commerce and Navigation
between France and Nicaragua,
signed at Washington, 11 April 1859

THE text of this instrument embodying the Treaty is reproduced here from *British and Foreign State Papers*, vol. L, p. 363, the Treaty appearing also in Martens, *Nouveau Recueil Général*, vol. XVI(2), p. 183, and De Clercq, *Recueil des Traités de la France*, vol. VII, p. 586.

FRENCH TEXT

*DECRET de l'Empereur des Français, portant promulgation du
Traité d'Amitié, de Commerce et de Navigation conclu, le
11 Avril, 1859, entre la France et la République de Nica-
ragua.—Paris, le 21 Janvier, 1860.*

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empe-
reur des Français, à tous présents et à venir, salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Départe-
ment des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Un Traité d'Amitié, de Commerce et de Navigation ayant
été conclu, le 11 Avril, 1859, entre la France et la République de
Nicaragua, et les ratifications de cet acte ayant été échangées à Paris
le 10 Janvier, 1860, ledit Traité, dont la teneur suit, recevra sa pleine
et entière exécution.

TRAITE.

Sa Majesté l'Empereur des Français et la République de Nicara-
gua, désireux de maintenir et de fortifier les relations de bonne amitié
qui existent heureusement entre eux, et de favoriser les relations
commerciales entre leurs sujets et citoyens respectifs, ont jugé con-

Impériale et aux sujets Français seront pleinement protégés et réservés; et que, s'il existait aujourd'hui quelque concession ou contrat de cette sorte qui présentât un caractère valide, il est, en outre, entendu que la garantie et la protection de Sa Majesté Impériale, stipulées dans l'Article XXVIII de ce Traité, seront tenues pour nulles et non avenues, jusqu'à ce que les possesseurs de ces concessions et de ces contrats aient reconnu les concessions faites par ce Traité à Sa Majesté Impériale et aux sujets Français concernant les routes inter-océaniques ou quelqu'une d'entre elles, et aient consenti à en observer les conditions et à s'y soumettre, toute comme si elles avaient été insérées dans leurs concessions ou contrats originaux. Après cette reconnaissance et cette admission, ladite garantie et protection sera en pleine force. Il est bien entendu que rien de ce qui est contenu ici ne sera interprété pour ou contre la validité de l'un quelconque de ces contrats.

XXXII. Après 10 ans à dater de l'achèvement d'un canal, d'un chemin de fer, ou de toute autre route de communication à travers le territoire de Nicaragua, de l'océan Atlantique à l'océan Pacifique, la compagnie qui aura construit ou qui sera en possession de cette voie ne pourra partager entre ses actionnaires, directement ou indirectement, par l'émission de nouvelles actions, le paiement de dividendes ou autrement, plus de 15 pour cent par an, ou dans cette proportion, sur le produit des droits perçus. Et toutes les fois que ces droits s'élèveront à un produit supérieur, ils seront réduits au taux de 15 pour cent par an.

XXXIII. Il est entendu que rien de ce qui est contenu dans ce Traité ne devra être compris de façon à affecter la réclamation du Gouvernement et des citoyens de la République de Costa Rica à un libre passage par la rivière San-Juan pour leurs personnes et leurs propriétés de l'océan et vers l'océan.

XXXIV. Il est formellement convenu entre les deux Hautes Parties Contractantes que, indépendamment des stipulations qui précèdent, les Agents Diplomatiques et Consulaires, les citoyens de toute classe, les navires et marchandises de l'un des deux Etats jouiront, de plein droit, dans l'autre, des franchises, privilèges et immunités quelconques consentis ou à consentir en faveur de la nation la plus favorisée; et ce, gratuitement, si la concession est gratuite, ou avec la même compensation, si la concession est conditionnelle.

XXXV. Sa Majesté l'Empereur des Français et la République de Nicaragua, désirant rendre aussi durables et solides que les circonstances le permettront les relations qui s'établiront entre les deux puissances en vertu du présent Traité d'Amitié, de Navigation et de Commerce, ont déclaré solennellement convenir des points suivants:

Annex 15

**GREAT BRITAIN-NICARAGUA, TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION (LENNOX WYKE-ZELEDON),
MANAGUA, PREAMBLE AND ARTICLES IV, V, VII, XI, XVII,
XVIII, XXIII AND XXVI, 11 FEBRUARY 1860**

SOURCE: 121 CTS 364, 367-372, 375-377, 381-383

Treaty of Friendship, Commerce and
Navigation between Great Britain
and Nicaragua,
signed at Managua, 11 February 1860

THIS Treaty, which was denounced by Nicaragua with effect from 11 June 1868, is reproduced from *British and Foreign State Papers*, vol. I, p. 106, being printed also in *Parliamentary Papers*, 1860, vol. LXVIII, p. 557; *Hertslet's Commercial Treaties*, vol. XI, p. 451; and by Martens, *Nouveau Recueil Général*, vol. XVI(2), p. 380.

ENGLISH / SPANISH TEXTS

[Ratifications exchanged at London, August 2, 1860.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to maintain and improve the relations of good understanding which happily subsist between them, and to promote the commercial intercourse between their respective subjects and citizens, have deemed it expedient to conclude a Treaty of Friendship, Commerce, and Navigation, and have for that purpose named as their respective Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esquire, Companion of the Most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a Special Mission to the Republics of Central America;

And his Excellency the Pre-

SU Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, y la República de Nicaragua, deseosas de mantener y mejorar las relaciones de buena inteligencia que felizmente existen entre ellas, y de promover el comercio entre sus respectivos subditos y ciudadanos, han juzgado conveniente concluir un Tratado de Amistad, Comercio, y Navegacion, y con ese objeto nombrado como sus Plenipotenciarios, á saber:

SU Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, al Caballero Charles Lennox Wyke, Socio distinguido de la muy Honorable Orden del Baño, Enviado Extraordinario y Ministro Plenipotenciario de Su Magestad Británica, en Mision Especial á las Repúblicas de Centro-América;

Y su Excelencia el Presidente

IV. The Contracting Parties likewise agree, that whatever kind of produce, manufacture, or merchandize can be, from time to time, lawfully imported into the British dominions in British vessels, may also be imported in vessels of the Republic of Nicaragua; and that no higher or other duties upon the vessel or upon her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and in like manner, that whatever kind of produce, manufacture, or merchandize can be from time to time lawfully imported into the Republic of Nicaragua in its own vessels, may be also imported in British vessels; and that no higher or other duties upon the vessel or upon her cargo shall be levied or collected, whether the importation be made in vessels of the one country or of the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and that the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in British vessels, or in vessels of the Republic of Nicaragua.

V. No higher or other duties shall be imposed on the importation into the British dominions of any article the growth, pro-

IV. Las Partes Contratantes convienen asimismo, en que cualquier clase de producto, manufactura, ó mercancía, que pueda ser de vez en cuando legalmente importada á los dominios Británicos en buques Británicos, pueda también ser importada en buques de la República de Nicaragua; y que no se impondrán ni exigirán otros ó mas crecidos derechos sobre el buque o sobre su carga, bien se haga la importacion en buques del un país ó del otro; y de la misma manera, que cualquiera clase de producto, manufactura, ó mercancía que de vez en cuando pueda ser legalmente importada á la República de Nicaragua en sus propios buques, pueda también ser importada en buques Británicos; y que no se impondrán ni exigirán otros ó mas crecidos derechos sobre el buque ó sobre su carga, ora se haga la importacion en buques del un país ó del otro.

Y ademas convienen en que cualquiera cosa que pueda ser legalmente exportada ó reexportada del un país en sus propios buques, á cualquier país extranjero, de la misma manera pueda ser exportada ó reexportada en buques del otro país; y que se concederán y exigirán los mismos premios, impuestos, y rebajas, ya se haga la exportacion ó re-exportacion en buques Británicos ó en buques de la República de Nicaragua.

V. No se impondrán otros ó mas crecidos derechos á la importacion á los dominios Británicos, de cualquier artículo de vegeta-

duce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the Republic of Nicaragua of any article the growth, produce, or manufacture of the British dominions, than are or shall be payable on the same or the like article being the produce or manufacture of any other country. Nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any article to the territories of the other, than such as are payable on the exportation of the same or the like article to any foreign country.

No prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the territories of either of the two Contracting Parties into the territories of the other, which shall not equally extend to the importation of the same or the like article being the growth, produce, or manufacture of any other country: nor shall any prohibition be imposed on the exportation of any article from the territories of either of the two Contracting Parties to the territories of the other, which shall not equally extend to the exportation of the same or the like article to the territories of all other nations.

VI. No duties of tonnage, harbour, pilotage, lighthouse,

ciou, producto, ó manufactura de la República de Nicaragua, ni se impondrán otros ó mas crecidos derechos á la importacion á la República de Nicaragua, de cualquier artículo de vegetacion, producto, ó manufactura de los dominios Británicos, que los que se pagan ó se pagaren en lo sucesivo por el mismo artículo ú otro semejante, del producto ó manufactura de cualquier otro pais extranjero. Ni se impondrán otros ó mas crecidos derechos ó cargas, en ninguno de los dos paises, á la exportacion de cualquier artículo á los territorios del otro, que aquellos que se paguen por la exportacion del mismo artículo ú otro semejante á cualquier otro pais extranjero. No se impondrá prohibicion alguna á la importacion á los territorios de una de las dos Partes Contratantes de cualquier artículo de vegetacion, producto, ó manufactura de los territorios de la otra Parte Contratante, que no se extienda igualmente á la importacion del mismo artículo ú otro semejante, de vegetacion, producto, ó manufactura de cualquier otro pais: ni se impondrá prohibicion alguna á la exportacion de cualquier artículo que se haga de los territorios de cualquiera de las dos Partes Contratantes á los territorios de la otra, la cual no se extienda igualmente á la exportacion del mismo artículo ú otro semejante á los territorios de todas las otras naciones.

VI. Ningunos derechos de tonelage, portazgo, pilotage, fero,

quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, levied in the name or for the profit of the Government, public functionaries, corporations, or establishments of whatever kind, shall be imposed in the ports of either country upon the vessels of the other country, which shall not be equally imposed in the like cases upon national vessels.

VII. In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the preceding Articles are, to their full extent, applicable to British vessels and their cargoes arriving in the ports of Nicaragua, and reciprocally to the vessels of the said Republic and their cargoes arriving in British ports, whether they proceed from the ports of the country to which they respectively belong, or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on the said vessels or upon their cargoes, whether such cargoes shall consist of native or of foreign produce or manufacture.

VIII. All vessels which, according to the laws of Great Britain, are to be deemed British vessels, and all vessels which, according to the laws of the Republic of Nicaragua, are to be deemed vessels of that Republic, shall, for the purposes of this Treaty, be deemed British

cuarentena, à otros semejantes ó correspondientes, de cualquier naturaleza, ó bajo cualquier denominacion, exigidos en nombre ó en beneficio del Gobierno, funcionarios públicos, corporaciones ó establecimientos de cualquiera clase, serán impuestos en los puertos del uno y del otro país á los buques del otro, que no sean igualmente impuestos en casos semejantes á los buques nacionales.

VII. A fin de evitar la posibilidad de una mala inteligencia, se declara por el presente que las estipulaciones contenidas en los anteriores Artículos son aplicables, en su mas plena extension, á los buques Británicos y sus cargas que arriben á los puertos de Nicaragua, y reciprocamente á los buques de dicha República y sus cargas que arriben á los puertos Británicos, ya procedan de los puertos del país á que respectivamente pertenecen, ó de los puertos de cualquier otro país extranjero; y en uno y otro caso, no se impondrán ni exigirán derechos especiales en los puertos de uno y otro país, sobre dichos buques ó sobre sus cargas, bien sea que esas cargas consistan en productos ó manufacturas naturales ó extranjeras.

VIII. Todos los buques que, conforme á las leyes de la Gran Bretaña, deben ser reputados buques Británicos, y todos los buques que, conforme á las leyes de la República de Nicaragua, deben ser reputados buques de la República, para los fines de este Tratado serán repu-

vessels and vessels of Nicaragua respectively.

IX. It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other subjects or citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandise, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as subjects or citizens of the country in which they reside or are conducting their business, and to be subject to the laws of that country.

X. Whenever the citizens of either of the Contracting Parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, and all favour and protection shall be given to them for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

XI. If any ship of war or merchant-vessel of either of the High Contracting Parties should be wrecked on the coasts of the

tados buques Británicos y buques de Nicaragua respectivamente.

IX. Se conviene además en que todos los comerciantes, comandantes de buques y otros súbditos y ciudadanos de ambos países, tendrán entera libertad de manejar sus propios negocios, por sí ó por medio de agentes, en todos los puertos y lugares sujetos á la jurisdicción de uno ú otro, así con respecto á la consignación y venta de sus géneros y mercancías, por mayor ó menor, como á la carga, descarga, y despacho de sus buques; en todos estos casos deberán ser tratados como súbditos ó ciudadanos del país en que residen ó conducen sus negocios, y estarán sujetos á las leyes del mismo país.

X. En cualquier tiempo que los ciudadanos de cualquiera de las Partes Contratantes sean forzados á buscar refugio ó asilo en las riveras, bahías, puertos, ó dominios de la otra, con sus buques, mercantes ó de guerra, públicos ó particulares, por causa de temporal, persecucion de piratas ó enemigos, ó por falta de provisiones ó agua, serán recibidos y tratados con humanidad, y les serán dispensados todo favor y proteccion para reparar sus buques, procurar provisiones, y ponerse en situacion de continuar su viage, sin obstaculo ni impedimento de ninguna clase.

XI. Si se arruinase algun buque de guerra ó mercante de cualquiera de las altas Partes Contratantes en las costas de la

other, such ship or vessel, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored to the owners, upon being claimed by them or by their duly authorized agents; and if there are no such owners or agents on the spot, then the said ships or parts of ships, furniture, appurtenances, goods, and merchandize, or the proceeds thereof, if sold, as well as all the papers found on board such wrecked ship or vessel, shall be delivered to the British Consul or Vice-Consul, or to the Consul or Vice-Consul of the Republic of Nicaragua, in whose district the wreck may have taken place, upon being claimed by him, and on his giving a receipt or acknowledgment for the same; and upon payment by such Consul, Vice-Consul, owners, or agents, of only the expenses incurred in the preservation of the property, and of the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel. The charge for such salvage or other expenses shall be made and settled immediately, subject to such right of appeal on the part of the person paying the same as may exist in the respective countries. The goods and merchandize saved from the wreck shall not be subject to duties, unless cleared for consumption; in which case they shall be liable

otra, dichos buques, ó cualquiera parte de ellos, y todo mueble y adjunto que les pertenezcan, y todos los generos y mercancías que se salvaren, ó sus valores, si se vendiesen, serán fielmente restituidos á los propietarios, cuando sean reclamados por ellos ó por sus agentes debidamente autorizados; y si no hubiese tales propietarios ó agentes en el lugar, dichos buques ó partes de ellos, muebles, adjuntos, géneros y mercancías, ó sus valores, si se vendiesen, así como todos los papeles encontrados abordo de los buques arruinados, serán entregados al Cónsul ó Vice-Cónsul Británico, ó al Cónsul ó Vice-Cónsul de la República de Nicaragua, en cuyo distrito haya acontecido la ruina, cuando los reclamen y den de ello recibo ó constancia; y cuando el Cónsul, Vice-Cónsul, propietarios ó agentes paguen las solas expensas hechas en la preservacion de la propiedad, y las expensas de salvamento ú otras que se habrian pagado en caso semejante de ruina de un buque nacional. El cargo ú otras expensas por un salvamento de esta naturaleza se hará y arreglará inmediatamente, quedando sujeto al derecho de apelacion en favor de la persona que haya de pagar, en la forma que exista en los respectivos paises. Los géneros y mercancías que se salven de la ruina no pagarán derecho, sino en el caso de que hubiesen sido destinados para consumo; mas entonces solo pagarán aquellos que habrian pagado si hubiesen

only to the same duties as if they had been imported in a national vessel.

XI. The subjects and citizens of either of the two Contracting Parties in the territories of the other shall be at full liberty to acquire, possess, and dispose of, whether by purchase, sale, donation, exchange, marriage, testament, succession *ab intestato*, or in any other manner whatever, every description of property which the laws of the country may permit any foreigners, of whatsoever nation, to hold. Their heirs and representatives may succeed to and take possession of such property, either in person or by agents acting on their behalf, in the ordinary form of law, in the same manner as subjects or citizens of the country; and in the absence of such heirs and representatives, the property shall be treated in the same manner as the like property belonging to a subject or citizen of the country under similar circumstances.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge, than is payable by subjects or citizens of the country. In every case the subjects and citizens of the Contracting Parties shall be permitted to export their property, or the proceeds thereof; British subjects from the territory of Nicaragua, and Nicaraguan citizens from the British territory, freely, and without being subject on such exportation to pay any

sido importados en buque nacional.

XII. Los súbditos y ciudadanos de cualquiera de las dos Partes Contratantes, en los territorios de la otra, tendrán plena libertad de adquirir, poseer, y disponer, por compra, venta, donación, cambio, casamiento, testamento, sucesión *ab intestato*, ó de otra manera cualquiera, toda clase de propiedad que las leyes del país permitan tener á los extranjeros de cualquier nacionalidad. Sus herederos y representantes pueden suceder, y tomar posesión de la propiedad por sí ó por medio de agentes que obren en su nombre, en la forma ordinaria de ley, de la misma manera que los súbditos ó ciudadanos del país; y en ausencia de herederos y representantes, la propiedad será tratada de la misma manera que propiedad semejante perteneciente á un súbdito ó ciudadano del país, bajo iguales circunstancias.

En ninguno de estos pagarán ellos sobre el valor de la propiedad otros ó mas crecidos derechos, impuestos, ó cargas, que los que pagan los súbditos ó ciudadanos del país. En todo caso, á los súbditos y ciudadanos de las Partes Contratantes, les será permitido exportar su propiedad ó los productos de ella: á los súbditos Británicos de los territorios de Nicaragua, y á los ciudadanos Nicaragüenses de los territorios Británicos, libremente y sin estar sujetos por la expor-

service any such deserters, upon being required by the other Party to do so.

And it is further agreed, that if any of the crew of any merchant-vessel of either Contracting Party shall desert from such vessel within any port in the territory of the other Party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application to that effect being made by the Consul of the Party concerned, or by the deputy or representative of the Consul: and any person knowingly protecting or harbouring such deserters shall be liable to punishment.

XVII. British subjects residing in the territories of the Republic of Nicaragua shall enjoy the most perfect and entire liberty of conscience, without being annoyed, molested, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to Divine worship, and the respect due to the laws of the country. Liberty shall also be granted to bury British subjects who may die in the territories of the Republic of Nicaragua, in convenient and adequate places, to be appointed and established by themselves for that purpose, with

servicios á los desertores, cuando sea requerida por la otra para hacerlo así.

Y ademas es entendido que si algun individuo de la tripulacion de algun buque mercante de cualquiera de las Partes Contratantes desertase de dicho buque en puerto del territorio de la otra Parte, las autoridades del puerto y territorio serán obligadas á dar toda la asistencia que esté en su poder para la captura del desertor, cuando el Cónsul ó Vice-Cónsul, ó el diputado ó representante del Cónsul de la Parte interesada, las haga peticion á ese fin: y cualquiera persona que á sabiendas proteja ó resguarde á esa clase de desertores, será sujeta á castigo.

XVII. Los súbditos Británicos residentes en los territorios de la República de Nicaragua, disfrutará de la mas perfecta y completa libertad de conciencia, sin ser incomodados, molestados, ó perturbados por razon de su creencia religiosa. No se les incomodará, molestará, ó perturbará en el legitimo ejercicio de su religion en casas particulares, ó en las capillas ó lugares de adoracion designados con ese objeto, con tal que al hacerlo observen el decoro debido al culto Divino, y el respeto á las leyes del pais. Tambien será permitido enterrar á los súbditos Británicos que mueran en los territorios de la República de Nicaragua, en lugares convenientes y adecuados, que, con ese fin, deben ser señalados y establecidos por ellos mismos, con conocimiento de las

the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in any wise or upon any account.

In like manner, the citizens of Nicaragua shall enjoy within the dominions of Her Britannic Majesty a perfect and unrestrained liberty of conscience, and of exercising their religion within private houses, or in the chapels or places of worship appointed for that purpose, agreeably to the laws of those dominions.

XVIII. For the better security of commerce between the subjects and citizens of the two High Contracting Parties, it is agreed that if at any time any rupture, or any interruption of friendly intercourse, should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of them, established in the territories of the other, who may reside upon the coasts, shall be allowed 6 months, and those who may reside in the interior a whole year, to wind up their accounts and to dispose of their property; and a safe-conduct shall be given to them to embark at the port which they themselves shall select. The subjects or citizens of either of the two Contracting Parties who may be established in the dominions or territories of the other, in the exercise of any trade or other occupation or employment, shall be allowed to

autoridades locales, ó en los otros lugares de sepultura que elijan los amigos del finado; ni se perturbarán los funerales ó sepulcros de los muertos, en ningun modo ni por ningun motivo.

Asimismo los ciudadanos Nicaraguenses disfrutarán en los dominios de Su Magestad Británica de perfecta é ilimitada libertad de conciencia, y de ejercer su religion en casas particulares, ó en las capillas ó lugares de culto designados con ese fin, conforme á las leyes de aquellos dominios.

XVIII. Para la mayor seguridad del comercio entre los súbditos y ciudadanos de las dos Altas Partes Contratantes, se conviene en que si en algun tiempo ocurriese por desgracia alguna ruptura ó interrupcion de relaciones amistosas entre las dos Partes Contratantes, á los súbditos ó ciudadanos de cada una, establecidos en los territorios de la otra, que residan en las costas, se les concederán 6 meses, y á los que residan en el interior, un año entero, para arreglar sus cuentas y disponer de su propiedad; y se les dará un salvo conducto para embarcarse en el puerto que ellos mismos elijan. Los subditos ó ciudadanos de cualquiera de las dos Partes Contratantes que esten establecidos en los dominios ó territorios de la otra, ocupados en el comercio ú otra ocupacion ó empleo, tendrán permiso de quedarse y continuar en ejercicio de

remain and continue in the exercise of the said trade or occupation, notwithstanding the interruption of friendship between the two countries, in the free enjoyment of their personal liberty and property, so long as they behave peaceably and observe the laws; and their goods and effects, of whatever description they may be, whether in their own custody or entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property belonging to native subjects or citizens. In the same case, debts between individuals, public funds, and the shares of Companies, shall never be confiscated, sequestered, or detained.

XIX. It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other Party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls such particular places as either of them may judge fit to be excepted.

The Diplomatic Agents and Consuls of each of the two High Contracting Parties in the dominions or territories of the other, shall enjoy whatever privileges, exemptions, and immunities are

dicho comercio ó ocupacion, sin embargo de la interrupcion de amistad entre los dos paises, en libre goce de su libertad personal y de su propiedad, en tanto que se conduzcan pacíficamente y observen las leyes; y sus géneros y efectos, de cualquiera descripcion que sean, ya esten en su propia custodia ó confiados á individuos ó al Estado, no estarán sujetos á embargo ó secuestro, ni á otras cargas ó demandas que aquellas que se hagan sobre efectos ó propiedades semejantes, pertenecientes á súbditos ó ciudadanos naturales. En el mismo caso, la deudas entre individuos, fondos públicos, y las acciones de Compañías, jamas se confiscarán, secuestrarán, ni detendrán.

XIX. Cada una de las Partes Contratantes podrá nombrar Cónsules para la proteccion del comercio, que residan en los dominios ó territorios de la otra Parte; pero antes de que algun Cónsul obre como tal, deberá ser aprobado y admitido en la forma usual, por el Gobierno á que es enviado; y cada una de las Partes Contratantes puede exceptuar de la residencia de Cónsules los lugares particulares que juzgue conveniente exceptuar.

Los Agentes Diplomáticos y los Cónsules de las dos Partes Contratantes, en los dominios y territorios de la otra, gozarán de todos los privilegios, exenciones, ó inmunidades que esten con-

will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty may, with the consent or at the request of the Government of Nicaragua, or of the Minister thereof at London or Paris, or of the competent legally-appointed local authorities, civil or military, employ such force for this and for no other purpose; and when, in the opinion of the Nicaraguan Government, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or properties of British subjects, Her Majesty's forces are authorized to act for their protection without such previous consent having been obtained.

XXIII. It is understood, however, that Her Britannic Majesty, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intends that the protection and guarantee are granted conditionally, and may be withdrawn if Her Britannic Majesty should deem that the persons or Company undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Treaty, either by making unfair discriminations in favour of the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails,

rutas, empleará la fuerza que se requiera para ese objeto; pero si dejase de hacerlo por cualquier causa, Su Magestad Británica puede, con consentimiento ó á solicitud del Gobierno de Nicaragua ó de su Ministro en Londres ó Paris, ó de las competentes autoridades locales, civiles ó militares, legalmente designadas, emplear dicha fuerza con este y no con otro objeto; y cuando la necesidad cese, á juicio del Gobierno de Nicaragua, dicha fuerza sera inmediatamente retirada.

Sin embargo, en el caso excepcional de imprevisto ó inminente peligro de la vida ó propiedades de subditos Británicos, las fuerzas de Su Magestad están autorizadas para darles su proteccion, sin haber obtenido el previo consentimiento.

XXIII. Pero queda entendido que Su Magestad Británica, al acordar proteccion á las rutas de comunicacion, y garantizar su neutralidad y seguridad, siempre intenta que la proteccion y garantia sean concedidas condicionalmente, y que pueden ser retiradas si Su Magestad Británica entendiese que las personas ó compañía que las emprenden ó manejan, adoptan ó establecen regulaciones concernientes al trafico que sean contrarias al espíritu ó intencion de este Tratado, ya haciendo injustas distinciones en favor del comercio de cualquiera nacion ó naciones, ó imponiendo opresivas exacciones ó irrazonables derechos sobre las malas, pasajeros,

passengers, vessels, goods, wares, merchandize, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by Her Britannic Majesty without first giving 6 months' notice to the Republic of Nicaragua.

XXIV. And it is further understood and agreed that, in any grant or contract which may hereafter be made or entered into by the Government of Nicaragua, having reference to the interoceanic routes above referred to, or any of them, the rights and privileges granted by this Convention to Her Britannic Majesty and to British subjects shall be fully protected and reserved; and if any such grant or contract now exist of a valid character, it is further understood that the guarantee and protection of Her Britannic Majesty stipulated in Article XXI of this Treaty shall be held inoperative and void, until the holders of such grant or contract shall recognize the concessions made in this Treaty to Her Britannic Majesty and to British subjects with respect to such interoceanic routes, or any of them, and shall agree to observe, and be governed by, those concessions as fully as if they had been embraced in their original grant or contract; after which recognition and agreement, the said guarantee and protection shall be in full force: provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said

buques, géneros, efectos, mercancías, ú otros artículos. Mas la predicha proteccion y garantia no serán retiradas por Su Magestad Británica sin dar noticia al Gobierno de Nicaragua con 6 meses de anticipacion.

XXIV. Y además queda entendido y convenido, que en cualquier concesion ó contrato que en lo de adelante haga ó concluya el Gobierno de Nicaragua, relativos á las rutas interoceanicas arriba dichas, ó á alguna de ellas, serán plenamente protegidos y reservados los derechos y privilegios concedidos por esta Convencion á Su Magestad Británica y á los súbditos Británicos; y queda asimismo entendido, que si existiese ahora alguna concesion ó contrato de esta naturaleza y de caracter valido, la garantia y proteccion de Su Magestad Británica, estipuladas en el Artículo XXI de este Tratado, se considerarán sin fuerza y nulas, hasta que los tenedores de dicha concesion ó contrato reconozcan las concesiones hechas en este Tratado á Su Magestad Británica y á los súbditos Británicos con respecto á las rutas interoceanicas ó á cualquiera de ellas, y convengan en observar y ser guiados por estas concesiones tan de lleno como si las abrazara su concesion ó contrato original; despues de cuyo reconocimiento y convenio, dichas proteccion y garantia estarán en plena fuerza: bien entendido que nada de lo contenido en el presente podrá in-

contracts.

XXV. After 10 years from the completion of a canal, railroad, or any other route of communication, through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no Company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than 15 per cent. per annum, or at that rate, to its stockholders, from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of 15 per cent. per annum.

XXVI. It is understood that nothing contained in this Treaty shall be construed to affect the claim of the Government and citizens of the Republic of Costa Rica to a free passage, by the San Juan river, for their persons and property, to and from the ocean.

XXVII. The present Treaty shall remain in force for the term of 20 years from the day of the exchange of ratifications; and if neither Party shall notify to the other its intention of terminating the same, 12 months before the expiration of the 20 years stipulated above, the said Treaty shall continue binding on both parties beyond the said 20 years, until 12 months from the time that one of the Parties may notify to

interpretarse como que afirma ó niega la validez de alguno de dichos contratos.

XXV. Despues de 10 años de la conclusion de un canal, ferro-carril, ó cualquiera otra via de comunicacion, del Oceano Atlantico al Pacifico, á traves del territorio de Nicaragua, ninguna Compañia que haya construido dicha via, ó que esté en posesion de ella, podrá nunca dividir á sus accionistas, pago de dividendos, directa ó indirectamente, por emision de nuevas acciones, ó de otro modo, mas de un 15 por ciento anual, ó en aquella proporcion, por impuestos colectados en aquella via; pero cuando se descubra que estos impuestos renden una utilidad mayor que esta, se reducirán á la regla fija de 15 por ciento anual.

XXVI. Queda entendido que nada de lo contenido en este Tratado deberá entenderse que afecta el reclamo del Gobierno y ciudadanos de la República de Costa Rica de un libre pasaje de sus personas y propiedades por el Rio San Juan del oceano y para el oceano.

XXVII. El presente Tratado permanecerá en fuerza por el termino de 20 años desde el dia del cange de las ratificaciones; y si ninguna de la dos Partes notificase á la otra su intencion de terminarle, 12 meses antes de la expiracion de dichos 20 años, el Tratado continuará obligando á ambas Partes mas allá de los referidos 20 años, hasta 12 meses despues del tiempo en que una de las Partes notifique á la otra

Annex 16

NICARAGUA-CENTRAL AMERICAN TRANSIT COMPANY
INTER-OCEANIC TRANSIT CONTRACT (MOLINA-MORRIS),
WASHINGTON, ARTICLES VII, XIX AND XXI,
10 NOVEMBER 1863

SOURCE: NCM ANNEX 18.
ENGLISH TRANSLATION BY COSTA RICA

TRANSLATION**Nicaragua-Central American Transit Company Inter-Oceanic Transit
Contract (Molina-Morris), Washington, 10 November 1863**

...
Article VII: "...being said exclusive privilege of navigation expressly limited to the purposes of the sole inter-oceanic transit route granted hereunder..."

...
Article XIX: "The Government guarantees the Company that in the execution of the works that it herewith accepts, which works are one of the main purposes of this contract..."

...
Article XXI: "The Government disembarks and returns to the Company the road, stations, docks, steamers, the rest of the steamers and the other objects and property that the said Company..."

Annex 17

UNITED STATES-NICARAGUA TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION (AYON-DICKINSON),
MANAGUA, PREAMBLE, ARTICLES II, VI, VII, VIII,
IX, XV, XVI AND XVII, 21 JUNE 1867

SOURCE: G. P. SANGER, *THE STATUTES AT LARGE, TREATIES
AND PROCLAMATIONS OF THE UNITED STATES OF AMERICA
FROM DECEMBER 1867, TO MARCH 1869*, VOL. XV
(BOSTON: LITTLE, BROWN AND COMPANY, 1869),
PP. 549-550, 552-555, 558-561

BY AUTHORITY OF CONGRESS.

THE

Statutes at Large, Treaties,

AND

PROCLAMATIONS,

OF THE

UNITED STATES OF AMERICA.

FROM

DECEMBER 1867, TO MARCH 1869.

*Arranged in Chronological Order and carefully collated with the
Originals at Washington.*

WITH

**REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT
ACTS ON THE SAME SUBJECT.**

EDITED BY

GEORGE P. SANGER,

COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognized, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1846.

VOL. XV.

BOSTON:

LITTLE, BROWN, AND COMPANY.

1869.

Treaty between the United States of America and the Republic of Nicaragua; Concluded June 21, 1857; Ratified June 20, 1868; Proclaimed August 13, 1868.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA: June 21, 1857.

A PROCLAMATION.

WHEREAS a treaty of friendship, commerce, and navigation, between the United States of America and the republic of Nicaragua, was concluded and signed by their respective plenipotentiaries, at the city of Managua, on the twenty-first day of June, in the year of our Lord one thousand eight hundred and sixty-seven, which treaty, being in the English and Spanish languages, is word for word as follows:—

Preamble.

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA.

TRATADO DE AMISTAD, COMERCIO Y NAVEGACION ENTRE LA REPUBLICA DE NICARAGUA Y LOS ESTADOS UNIDOS DE NORTE AMÉRICA.

The United States of America and the republic of Nicaragua desiring to maintain and to improve the good understanding and the friendly relations which now happily exist between them, to promote the commerce of their citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific oceans, by the river San Juan, and either or both the lakes of Nicaragua and Managua, or by any other route through the territories of Nicaragua, have agreed for this purpose to conclude a treaty of friendship, commerce and navigation, and have accordingly named as their respective plenipotentiaries, that is to say: the President of the United States, Andrew B. Dickinson, minister resident and extraordinary to Nicaragua, and his excellency the President of the republic of Nicaragua, Señor Licenciado Don Tomas Ayon, minister of foreign relations, who, after communicating to each other their full powers, found in due and proper form, have agreed upon the following articles:

La republica de Nicaragua y los Estados Unidos de America, deseario conservar y mejorar la buena inteligencia y amigables relaciones que ahora felizmente existen entre ellos, promover el comercio de sus ciudadanos y hacer algunos arreglos reciprocos respecto de la comunicacion entre los oceanos Atlantico y Pacifico por el Rio San Juan, y cada uno ó ambos, los Lagos de Nicaragua ó de Managua, ó por cualquiera otra ruta al traves del territorio de Nicaragua; con tal objeto han convenido en concluir un tratado de amistad, comercio y navegacion, y en consecuencia han nombrado como sus respectivos plenipotenciarios, á saber: Su Excelencia el Presidente de la republica de Nicaragua al Señor Licenciado Don Tomas Ayon, ministro de relaciones exteriores, y el Presidente de los Estados Unidos, al Señor Andrew B. Dickinson, ministro residente y extraordinario en Nicaragua, quienes, despues de haberse comunicado reciprocamente sus plenos poderes, encontrados en propia y debida forma, han convenido en los articulos siguientes:

Contracting parties.

ARTICLE I.

There shall be perpetual amity between the United States and their

ARTICULO I.

Habrà amistad perpetua entre la republica de Nicaragua y sus ciuda-

Peace and friendship.

citizens on the one part, and the government of the republic of Nicaragua and its citizens of the other.

danos por una parte, y los Estados Unidos y sus ciudadanos por la otra.

ARTICLE II.

ARTICULO 2.

Freedom of commerce.

There shall be between all the territories of the United States and the territories of the republic of Nicaragua a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty freely and securely to come with their ships and cargoes to all places, ports, and rivers in the territories aforesaid to which other foreigners are or may be permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively. In like manner the respective ships of war and post-office packets of the two countries shall have liberty freely and securely to come to all harbors, rivers, and places to which other foreign ships of war and packets are or may be permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

Coasting trade.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood; in which trade national vessels only of the country where the trade is carried on are permitted to engage.

Rights of most favored nations.

It being the intention of the two high contracting parties to bind themselves by the two preceding articles to treat each other on the footing of the most favored nations, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of com-

Habrà reciproca libertad de comercio entre todos los territorios de la republica de Nicaragua y los territorios de los Estados Unidos. Los ciudadanos de los dos paises, respectivamente, tendrán plena libertad de llegar franca y seguramente con sus buques y cargamentos á todos los lugares, puertos y rios en los territorios mencionados, á los cuales se permita ó se permitiere llegar á otros extranjeros, de entrar en los mismos, y permanecer y residir en cualquier parte de ellos, respectivamente; así como de alquilar y ocupar casas y almacenes para los objetos de su comercio; y en general los comerciantes y traficantes de cada nacion, respectivamente, gozarán de la mas completa proteccion y seguridad para su comercio, sujetos siempre á las leyes y estatutos de los dos paises, respectivamente. De la misma manera los respectivos buques de guerra y paquetes correos de los dos paises, tendrán libertad de llegar franca y seguramente á todos los puertos, rios y lugares á donde se permita ó se permitiere la llegada de otros buques de guerra y paquetes extranjeros; de entrar, en los mismos, anclar, permanecer en ellos, y reequiparse, sujetos siempre á las leyes y estatutos de los dos paises, respectivamente.

En el derecho de entrar en los lugares, puertos y rios mencionados, no se comprende el privilegio de hacer el comercio costanero, en el cual solamente pueden emplearse buques nacionales del pais en que se haga dicho comercio.

ARTICULO 3.

Siendo la intencion de las dos altas partes contratantes obligarse por los articulos presentes á tratarse mutuamente bajo el pie que á la nacion mas favorecida, convienen por el presente, en que cualquier favor, privilegio ó inmunidad en materia de comercio y navegacion que una

salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels, nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

Duties on imports the same in vessels of either country.

The same duties shall be paid on the importation into the territories of the republic of Nicaragua of any article being the growth, produce, or manufacture of the territories of the United States, whether such importation shall be made in Nicaraguan vessels or in the vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the republic of Nicaragua, whether such importation shall be made in Nicaraguan or United States vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to the republic of Nicaragua of any article being the growth, produce, or manufacture of the territories of the United States, whether such exportation shall be made in Nicaraguan or United States vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles being the growth, produce, or manufacture of the republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICLE VII.

Rights of citizens of each country in the territory of the other.

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the republic of Nicaragua to manage their own

de practicos, salvamento en caso de averia ó naufragio, ó impuestos locales de cualquiera clase en ninguno de los puertos de Nicaragua sobre los buques de los Estados Unidos que los que de han pagarse por los buques de Nicaragua, que los que deban pagarse en los mismos puertos sobre buques de los Estados Unidos.

ARTICULO 6.

Se pagaran los mismos derechos por la importacion á los territorios de la republica de Nicaragua de cualquier articulo que sea fruto, producto natural ó manufacturado de los territorios de los Estados Unidos, yá sea que tal importacion sea hecha en buques de Nicaragua ó en buques de los Estados Unidos, y se pagaran los mismos derechos por la importacion en los territorios de los Estados Unidos, de cualquier articulo que sea fruto, producto natural ó manufacturado de la republica de Nicaragua, ya sea que la importacion sea hecha en buques Nicaragüenses ó en buques de los Estados Unidos. Se pagaran los mismos derechos y se concederán los mismos premios y descuentos por la exportacion á la republica de Nicaragua de cualesquier articulos que sean frutos, productos naturales ó manufacturados de los territorios de los Estados Unidos, ya sea que la exportacion se haga en buques Nicaragüenses ó de los Estados Unidos, y se pagaran los mismos derechos, y se concederán los mismos premios y descuentos por la exportacion de cualesquier articulos que sean frutos, productos naturales ó manufacturados de la republica de Nicaragua ó de los territorios de los Estados Unidos, ya sea que dicha exportacion sea hecha en buques de los Estados Unidos ó de Nicaragua.

ARTICULO 7.

Todos los comerciantes, capitanes de buques y otros ciudadanos de los Estados Unidos, tendrán plena libertad en todos los territorios de la republica de Nicaragua, de manejar

affairs themselves, as permitted by the laws, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into or exported from the republic of Nicaragua as they shall see good, observing the laws and established customs of the country.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the republic of Nicaragua under the same conditions.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in said countries, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ, in all cases, advocates, attorneys, or agents, of whatsoever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

ARTICLE VIII.

In whatever relates to the police of the port, the lading and unlading of ships, the safety of merchandise, goods, and effects, the succession to personal estates, by will or otherwise, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties, and rights as native

sus propios negocios por sí mismos, como se permita por las leyes, ó de encargar el manejo de ellos, á quienquiera que ellos tengan por conveniente, con el caracter de corredor, factor, agente ó interprete, ni se les obligará á emplear ningunas otras personas con aquel caracter que las que sean empleadas por los Nicaragüenses, ni á pagarles otros salarios ó remuneraciones que los que en iguales casos sean pagados por ciudadanos Nicaragüenses; y en todos casos se concedera absoluta libertad al comprador y al vendedor para contratar y fijar el precio de cualesquiera generos, efectos ó mercancías exportadas á ó de la republica de Nicaragua, ó como mejor les parezca, observando las leyes y costumbres establecidas en el país.

Se gozaran los mismos privilegios en los territorios de los Estados Unidos por los ciudadanos de la republica de Nicaragua, bajo las mismas condiciones.

Los ciudadanos de la altas partes contratantes, reciprocamente, recibirán y gozaran plena y perfecta protección para sus personas y propiedades, y tendran libre y franco acceso á los tribunales de justicia en ambos países, respectivamente, para la prosecucion y defensa de sus justos derechos; y tendran libertad de emplear en todos los casos los abogados, procuradores ó agentes de cualquier clase que les parezcan convenientes, y gozaran en este particular de los mismos derechos y privilegios que los ciudadanos naturales.

ARTICULO 8.

En todo lo que hace relacion á la policia de los puertos, á la carga y descarga de los buques, á la seguridad de las mercancías, generos y efectos, á la sucesion de bienes muebles por testamento ó de otro modo, y á la disposicion de bienes muebles de toda especie y denominacion, por venta, donacion, cambio, testamento ó de cualquiera otra manera, como tambien á la administracion de justicia, los ciudadanos de las dos altas partes contratantes, gozaran reciprocamente de los mismos privilegios,

Rights of citizens of each country in the territory of the other.

Privileges.

Protection to persons and property.

Rights of citizens of each country in the territory of the other in respect to various matters.

citizens; and they shall not be charged in any of these respects with any higher imposts or duties than those which are or may be paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

Real estate.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union, or within the republic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate. But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the State in which it may be situated, there shall be accorded to the said heir, or other successor, such time as the laws of the State will permit to sell such property. He shall be at liberty, at all times, to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which would be paid by an inhabitant of the country in which the real estate may be situated.

Estates of deceased persons.

If any citizen of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul, or other diplomatic agent, of the nation to which the deceased belonged, (or the representative of such minister or consul, or other diplomatic agent, in case of absence,) shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, giving proper notice of such nomination to the authorities of the country.

Intermarriage and holding property not to change national character.

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with

libertades y derechos que los ciudadanos naturales; y no se les cargarán, en nada de lo que tenga relación con esto, otros impuestos ó derechos que los que se paguen, ó deban pagarse por los ciudadanos naturales, sometiéndose, por supuesto, á las leyes locales y á las regulaciones de cada país respectivamente.

Las estipulaciones que preceden se harán extensivas á los bienes raíces situados dentro de los Estados de la Union Americana ó de la republica de Nicaragua, en que se permitia á los extranjeros poseer y heredar fincas raíces.

Pero en caso que algunos bienes raíces situados dentro de los territorios de una de las partes contratantes, recayesen en un ciudadano de la otra parte, á quien por su calidad de extranjero no le fuere permitido poseer dicha propiedad en el Estado en que pueda estar situada, se le acordará á dicho heredero ó otro sucesor el termino que las leyes del Estado le permita para vender dicha propiedad; podrá en toda época retirar y exportar los productos de esta venta, sin dificultad y sin pagar al gobierno ningunos otros impuestos que los que, en casos semejantes, se pagaran por un habitante del país donde esen situadas las fincas raíces.

Si algun ciudadano de las dos altas partes contratantes muriese sin dejar testamento en cualquiera de los territorios de la otra, el ministro ó consul ú otro agente diplomático de la nacion á la cual pertenecia el difunto, (ó el representante de dicho ministro ó consul ú otro agente diplomático, en caso de ausencia,) tendrá el derecho de nombrar curadores que se hagan cargo de la propiedad del difunto, hasta donde lo permitan las leyes del país, en beneficio de los herederos legales y de los acreedores del difunto, dando noticia oportuna de tal nombramiento á las autoridades del país.

ARTICLE IX.

ARTICULO 9.

1. Los ciudadanos de los Estados Unidos que residen en Nicaragua, ó los ciudadanos de Nicaragua que residen en los Estados Unidos, pue-

the natives of the country; hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the republic of Nicaragua, and the citizens of Nicaragua residents in the United States, shall be exempted from all forced or compulsory military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged, in the same manner as the citizens of each nation, to pay lawful taxes, municipal and other modes of imposts, and ordinary charges, loans, and contributions in time of peace, (as the citizens of the country are liable,) in just proportion to the property owned.

3. Nor shall the property of either, of any kind, be taken for any public object without full and just compensation to be paid in advance; and

4. The citizens of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

ARTICLE X.

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party. But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent; and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the

den casarse con los naturales del país, poseer y disfrutar, por compra, casamiento ó sucesión, cualesquiera bienes muebles ó raíces, sin cambiar por esto su carácter nacional sujetos á las leyes ahora existen ó puedan expedirse á este respecto.

2. Los ciudadanos de los Estados Unidos residentes en la republica de Nicaragua, y los ciudadanos de Nicaragua residentes en los Estados Unidos, serán exceptuados de todo servicio militar, de tierra ó agua, cualquiera que sea, forzando ó compulsorio, de todas contribuciones de guerra, exacciones militares, empréstitos forzados en tiempo de guerra; pero estarán obligados del mismo modo que los ciudadanos de cada nación á pagar las contribuciones legales, los impuestos municipales y otros, y las cargas ordinarias, empréstitos y contribuciones en tiempo de paz, del mismo modo á que están sujetos los ciudadanos del país, en justa proporción á la propiedad que posean.

3. Ni será tomada la propiedad de ninguno de ellos, de cualquiera especie, para ningún objeto público, sin una previa compensación plena y justa, y

4. Los ciudadanos de cada una de las dos altas partes contratantes tendrán el derecho ilimitado de ir á cualquiera parte de los territorios de la otra; y en todos casos gozaran de la misma seguridad que los naturales del país en que residan, con la condición de que observen debidamente las leyes y ordenanzas.

ARTICULO 10.

Cada una de las altas partes contratantes tendrá libertad de nombrar consules para la protección del comercio que residan en cualquiera de los territorios de la otra parte. Pero antes que algun consul pueda obrar como tal, deberá ser admitido y aprobado en la forma acostumbrada por el gobierno cerca del cual es enviado; y cada una de las altas partes contratantes puede exceptuar de la residencia de los consules aquellas lugares particulares que juzgue conveniente exceptuar.

Los agentes diplomáticos y los

Exemption from compulsory military service and contributions

Property not to be taken unless, &c.

Freedom of travel and intercourse.

Consuls.

Recognition.

Residence.

Privileges and immunities.

ARTICLE XIV.

Right of transit between the Atlantic and Pacific oceans.

The republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific oceans through the territory of that republic, on any route of communication, natural or artificial, whether by land or by water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both republics and their respective citizens, the republic of Nicaragua, however, reserving its rights of sovereignty over the same.

ARTICULO 14.

La republica de Nicaragua concede por las presentes á los Estados Unidos y á sus ciudadanos y propietarios el derecho de tránsito entre los oceanos Atlantico y Pacifico, á través de los territorios de aquella republica por cualquiera vía de comunicación, natural ó artificial, ya sea por tierra ó por agua que ahora exista ó que pueda existir, ó ser construída en adelante bajo la autoridad de Nicaragua, para que pueda usarse y gozarse de la misma manera y bajo iguales terminos por ambas republicas y sus respectivos ciudadanos; reservandose, sin embargo la republica de Nicaragua su derecho de soberania sobre las mismas.

ARTICLE XV.

Neutrality, &c. of the routes to be guaranteed.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality and innocent use of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

Free port.

And the republic of Nicaragua, on its part, undertakes to establish one free port at each extremity of one of the aforesaid routes of communication between the Atlantic and Pacific oceans. At these ports no tonnage or other duties shall be imposed or levied by the government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended, bona fide, for transit across the said routes of communication, and not for consumption within the republic of Nicaragua. The United States shall also be at liberty, on giving notice to the government or authorities of Nicaragua, to carry troops and munitions of war in their own vessels, or otherwise, to either of said free ports, and shall be entitled to their conveyance between them without obstruction by said government or

No tonnage or other duties.

Conveyance of troops.

ARTICULO 15.

Los Estados Unidos convienen en extender su proteccion á todas aquellos vías de comunicacion que se acaban de mencionar, y á garantizar su neutralidad é inocente uso.

Tambien convienen en emplear su influencia con otras naciones para inducir las á garantizar igual neutralidad y proteccion. Y la republica de Nicaragua por su parte se compromete á establecer un puerto libre en cada estremidad de una de las rutas de comunicacion aforeschadas, entre los oceanos Atlantico y Pacifico. En estos puertos no se impondran ó exijiran por el gobierno de Nicaragua, ningunos derechos de tonelaje ó otros, sobre los buques de los Estados Unidos, ó sobre efectos ó mercancías pertenecientes á ciudadanos ó súbditos de los Estados Unidos, ó sobre los buques ó efectos de cualquier otro país, destinados *bona fide* para el tránsito á través de dichas vías de comunicacion, y no para el consumo dentro de la republica de Nicaragua. Los Estados Unidos tendran tambien libertad dando noticia al gobierno ó autoridades de Nicaragua de llevar tropas y municiones de guerra en sus propios buques ó de otro modo, á cualquiera de dichos puertos libres, y tendran derecho á transportarlos

authorities, and without any charges or tolls whatever for their transportation on either of said routes: *Provided*, said troops and munitions of war are not intended to be employed against Central American nations friendly to Nicaragua. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons and property of citizens or subjects of the United States, or of any other country, across the said routes of communication, than are or may be imposed on the persons and property of citizens of Nicaragua.

And the republic of Nicaragua concedes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI.

The republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this from any cause whatever, the government of the United States may, with the consent, or at the request of the government of Nicaragua, or of the minister thereof at Washington, or of the competent legally appointed local authorities, civil or military, employ such force for this

entre ellos, sin obstáculo por parte de dicho gobierno ó autoridades; y sin que se exijan ningunas cargas ó derechos de pasaje cualesquiera que sean, por su transporte, en ninguna de dichas vías de comunicación, con tal que dichas tropas y municiones de guerra no se intente emplearlas contra naciones Centro-Americanas amigas de Nicaragua. Y no se impondrán otros ó mas altos impuestos sobre la conduccion ó tránsito de las personas y de las propiedades de ciudadanos ó súbditos de los Estados Unidos ó de cualquier otro país al través de dichas vías de comunicación, que los que han sido ó sean impuestos sobre las personas y propiedades de ciudadanos de Nicaragua. Y la republica de Nicaragua concede al administrador general de correos de los Estados Unidos, el derecho de celebrar contratos con cualesquiera individuos ó compañías para el transporte de las malas de los Estados Unidos por dichas vías de comunicación ó por cualesquiera otras vías al través del istmo á su discrecion, en bultos cerrados, el contenido de las cuales no sea destinado para distribucion dentro de dicha republica, libres de la imposicion de toda taxa ó derecho por el gobierno de Nicaragua, pero libertad no debe interpretarse en el sentido de permitir á dichos individuos ó compañías en virtud de este derecho de transportar las malas, el llevar tambien pasajeros ó carga.

ARTICULO 16.

La republica de Nicaragua conviene en que si en cualquier tiempo fuese necesario emplear fuerzas militares para la seguridad y proteccion de las personas y propiedades que pasan sobre cualquiera de las antedichas rutas, empleara la fuerza requerida para tal proposito; pero si dejase de hacerlo por cualquiera causa, el gobierno de los Estados Unidos puede, con el consentimiento, ó á solicitud del gobierno de Nicaragua ó de su ministro en Washington, ó de las competentes autoridades locales, civiles ó militares, legalmente designadas, em-

Conveyance
of troops.

Tolls.

Protection of
persons and
property on
transit routes.

United States
may protect
routes by force.

and for no other purpose; and when, in the opinion of the government of Nicaragua, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or property of citizens of the United States, the forces of said republic are authorized to act for their protection without such consent having been previously obtained.

But no duty or power imposed upon or conceded to the United States by the provisions of this article shall be performed or exercised except by authority and in pursuance of laws of Congress hereafter enacted. It being understood that such laws shall not affect the protection and guarantee of the neutrality of the routes of transit, nor the obligation to withdraw the troops which may be disembarked in Nicaragua directly that, in the judgment of the government of the republic, they should no longer be necessary, nor in any manner bring about new obligations on Nicaragua, nor alter her rights in virtue of the present treaty.

ARTICLE XVII.

Protection by
the United
States may be
withdrawn.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discriminations in favor of the commerce of any country or countries over the commerce of any other country or countries, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise, or other articles. The aforesaid protection and guarantee shall not, however, be

plear tal fuerza, para este, y no para otro objeto; y cuando la necesidad cese, á juicio del gobierno de Nicaragua, tal fuerza será inmediatamente retirada.

En el caso escepcional, sin embargo, de imprevisto ó inminente peligro de la vida ó propiedades de ciudadanos de los Estados Unidos, las fuerzas de dicha republica estan autorizadas para darles su proteccion, sin que tal previo consentimiento haya sido obtenido.

Más ningún deber ó poder impuesto ó concedido á los Estados Unidos por las estipulaciones de este artículo será ejecutado ni ejercido, sino es por autorizacion y de conformidad con las leyes del Congreso que en adelante se expidan. Siendo entendido que tales leyes no podrán afectar la proteccion y garantia de neutralidad de las rutas de tránsito, ni el deber de retirar las tropas que desembarquen en Nicaragua, inmediatamente que á juicio del gobierno de esta republica fuesen ya innecesarias, ni en manera alguna producir, nueva obligacion para Nicaragua, ni alterar sus derechos en virtud del presente tratado.

ARTICULO 17.

Se entiende, sin embargo, que los Estados Unidos al acordar proteccion á las referidas vias de comunicacion, y al garantizar su neutralidad y seguridad, siempre tienen la intencion de que la proteccion y garantia sean concedidas condicionamente, y puedan ser retiradas si los Estados Unidos creyesen que las personas ó la compañía que las emprendan ó manejen, adopten ó establezcan tales regulaciones sobre el trafico por ellas que sean contrarias al espíritu y á la intencion de este tratado, ya por que hagan injustas discriminaciones en favor del comercio de cualquiera nacion ó naciones sobre el comercio de cualquiera otra nacion ó naciones, ó por que impongan exacciones opresivas ó injustos exesivos, sobre las mailas, pasajeros, mercancias ó otros artículos. Las mencionadas proteccion y garantia, no seran, sin embargo, retiradas

withdrawn by the United States without first giving six months' notice to the republic of Nicaragua.

das por los Estados Unidos sin dar noticia con seis meses de anticipación á la republica de Nicaragua.

ARTICLE XVIII.

And it is further agreed and understood that in any grants or contracts which may hereafter be made or entered into by the government of Nicaragua, having reference to the inter-oceanic routes above referred to, or either of them, the rights and privileges granted by this treaty to the government and citizens of the United States shall be fully protected and reserved. And if any such grants or contracts now exist, of a valid character, it is further understood that the guarantee and protection of the United States, stipulated in Article XV of this treaty, shall be held inoperative and void until the holders of such grants and contracts shall recognize the concessions made in this treaty to the government and citizens of the United States with respect to such inter-oceanic routes, or either of them, and shall agree to observe and be governed by these concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement said guarantee and protection shall be in full force: provided, that nothing herein contained shall be construed either to affirm or to deny the validity of the said contracts.

ARTICLE XIX.

After ten years from the completion of a railroad, or any other route of communication through the territory of Nicaragua from the Atlantic to the Pacific ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends or otherwise, more than fifteen per cent per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall

ARTICULO 18.

Y es ademas entendido y convenido que en cualesquiera privilegio ó contrato que puedan en lo sucesivo hacerse ó celebrarse por el gobierno de Nicaragua, y que tengan relacion con las rutas inter-oceanicas que se han mencionado, ó con alguna de ellas, seran plenamente protegidos y reservados los derechos y privilegios concedidos por esta convencion al gobierno y á los ciudadanos de los Estados Unidos. Y si al presente existen contratos ó privilegios de un caracter valido, queda tambien entendido que la garantia y proteccion de los Estados Unidos estipuladas en el articulo 15 de este tratado seran nulas y de ningun efecto hasta que los tenedores de tales privilegios ó contratos reconozcan las concesiones hechas en este tratado al gobierno y á las ciudadanos de los Estados Unidos, con respecto á dichas vias interoceanicas, ó á cualquiera de ellas, y convengan en observar y ser guiados por estas concesiones, tan completamente como si estuviesen comprendidas en sus privilegios ó contratos originales; despues de aquel reconocimiento y aceptacion, dichas garantias y proteccion tendran plena fuerza, con tal de que nada de lo contenido aqui sea interpretado como afirmando ó negando la validez de dichos contratos.

ARTICULO 19.

Diez años despues de la conclusion de un ferro carril ó cualquiera otra via de comunicacion á traves del territorio de Nicaragua del oceano Atlantico al Pacifico, ninguna compañía que haya construido ó que este en posesion de dicha via, podra nunca dividir directa ó indirectamente, por medio de emision de nuevas acciones, el pago de dividendos, ó de otro modo, mas de quince por ciento por año, ó en aquella proporcion, á sus accionistas por impuestos colectados en aquella via; pero cuando se descubra que

Rights of citizens of the United States to be preserved.

Dividends.

Annex 18

COSTA RICA-NICARAGUA, TREATY OF PEACE
AND FRIENDSHIP (VOLIO-ZELAYA), SAN JOSÉ,
PREAMBLE, 30 JULY 1868

SOURCES: ENGLISH VERSION: 134 CTS 478.
SPANISH VERSION: J. M. BONILLA, *COLECCIÓN DE TRATADOS
INTERNACIONALES* (MANAGUA: TIPOGRAFÍA
INTERNACIONAL, 1909), PP. 375-376

Treaty of Friendship between Costa
Rica and Nicaragua,
signed at San José, 30 July 1868

THIS translation is taken from *British and Foreign State Papers*, vol. LXX,
p. 258.

TRANSLATION

THE President of the Republic (of Nicaragua) to the inhabitants:

Know that Congress has ordered as follows:—

The Senate and Chamber of Deputies of the Republic of Nicaragua, decree—

1. The Treaty concluded on 30th July, 1868, between Señor Don José María Zelaya, Minister Plenipotentiary of this Republic, and Señor Don Julian Volio, Secretary of State of Costa Rica, duly thereto authorized, is with the modification of Article IV, and the expunction of Article VIII, as effected by the Congress of the aforesaid Republic of Costa Rica, duly ratified, and is as follows:

The Republic of Nicaragua on the one side and the Republic of Costa Rica on the other, animated by the desire to render close and permanent the friendly relations at present existing between them, have resolved to conclude a Treaty to that effect.

For this purpose the President of the Republic of Nicaragua has conferred full powers upon Don José María Zelaya, and the President of the Republic of Costa Rica upon Don Julian Volio, Secretary of State for Foreign Affairs, who after having communicated the said full powers, and after having found them in due and proper form, have agreed upon the ensuing Articles:—

I. There shall be constant peace and sincere and perpetual friendship between the Republic of Nicaragua and the Republic of Costa Rica.

II. Consequently the said Republics shall never in any case make war upon each other. Should any difference arise between them, they shall at first furnish each other the requisite explanations, and if these do not suffice to settle the difficulties and restore a good understanding, they shall resort in any eventuality to the arbitration of the Government of a friendly nation.

III. If, unfortunately, any nation should make war upon Nicaragua or upon Costa Rica, the two High Contracting Parties agree in the most absolute manner not to make an offensive alliance, nor afford any kind of help to the enemies of either of the two Republics. It is, however, declared that this does not prevent them from concluding alliances for the defence of their respective territories, in case they should be invaded.

IV. As the Republics of Nicaragua and Costa Rica cannot

COLECCION

DE

TRATADOS INTERNACIONALES



FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA



MANAGUA

TIPOGRAFIA INTERNACIONAL—5ª CALLE SUR NUM. 11

1909

TRATADO

—DE—

PAZ Y AMISTAD

ENTRE

NICARAGUA Y COSTA RICA



ZELAYA ✽ VOLIO

1868

Managua, noviembre 9 de 1869.

Señor Prefecto del departamento de.....

El S. P. E. ha emitido el decreto siguiente :

EL PRESIDENTE DE LA REPUBLICA
A SUS HABITANTES,

SABED :

Que el Congreso ha ordenado lo siguiente :

El Senado y Cámara de Diputados de la República de Nicaragua,

DECRETAN :

ÚNICO :—Ratificase, con la modificación del artículo 4º y supresión del 8º, hechas por el Congreso de la República de Costa Rica, el tratado celebrado el día 30 de julio de 1868, entre el señor Licdo. don José María Zelaya, Ministro Plenipotenciario de esta República y el señor Licdo don Julián Volio, Secretario de Estado de la antedicha de Costa Rica, competentemente autorizados, cuyo tenor es el siguiente :

“La República de Nicaragua, por una parte, y la de Costa Rica por otra, animadas del deseo de estrechar y per-

petuar las relaciones de amistad en que felizmente se encuentran, han resuelto celebrar un Tratado que produzca tales efectos.

Con este objeto, el Presidente de la República de Nicaragua ha conferido plenos poderes al Licdo. don José María Zelaya, y el Presidente de la República de Costa Rica al Licdo. don Julián Volio Secretario de Estado en el Despacho de Relaciones Exteriores.

Quienes después de haberse comunicado dichos poderes y de haberlos hallado en buena y debida forma, han convenido en los artículos siguientes :

Artículo I.

Habrà paz constante y amistad perpetua y sincera entre la República de Nicaragua y la República de Costa Rica.

Artículo II.

De consiguiente, jamás, en ningún caso dichas Repùblicas se harán la guerra. Si hubiese alguna diferencia entre ellas, se daràn previamente las explicaciones debidas, y si éstas no alcanzasen à zanjar las dificultades y restablecer la buena inteligencia, ocurriràn en toda eventualidad al arbitramento del Gobierno de una Nación amiga.

Artículo III.

Si por desgracia, alguna Nación hiciese la guerra à Nicaragua ó à Costa Rica, las dos Altas partes contratantes, convienen, de la manera más absoluta en no hacer alianza ofensiva, ni prestar ninguna clase de auxilios à los enemigos de alguna de las dos Repùblicas ; pero se declara que esto no impide que puedan celebrar alianzas para la defenza de sus respectivos territorios, en caso de ser invadidos.

Artículo IV.

No pudiendo considerarse rigurosamente las Repùblicas de Nicaragua y Costa Rica, como naciones extranjeras, por razón de su común origen, por las conexiones é intereses territoriales, comerciales y políticos que las han ligado y las ligan, se declara y establece que los nicaragüenses avecinados en cualquier punto del territorio de la Re-

Annex 19

COSTA RICA-NICARAGUA, TREATY FOR THE EXCAVATION
OF AN INTER-OCEANIC CANAL (JIMÉNEZ-MONTEALEGRE),
SAN JOSÉ, ARTICLES IX, XIV, XV, XVI, XIX, XXIII,
XXVII AND XXVIII, 18 JUNE 1869

SOURCE: NCM ANNEX 8, ENGLISH VERSION: (1870-1871)
LXI *BFSP* 1144-1148

BRITISH AND FOREIGN
STATE PAPERS.

1870—1871.

VOL. LXI.

COMPILED BY THE LIBRARIAN AND KEEPER OF THE PAPERS,
FOREIGN OFFICE.

London:
WILLIAM RIDGWAY, 169, PICCADILLY.

1877.

dence that your combined action will be wise, statesmanlike, and in the best interests of the whole country.

U. S. GRANT.

TREATY between Costa Rica and Nicaragua, for the Excavation of an Interoceanic Canal.—Signed at San José, June 18, 1869.

[Ratified by the President of Costa Rica, February 21, 1870.]
(Translation.)

THE Republics of Costa Rica and Nicaragua, wishing to have the contract carried out that was made at Paris on the 6th of October, 1868,* between Don Tomas Ayon, Representative of the Republic of Nicaragua, and M. Michel Chevalier, a French subject, for the excavation of an interoceanic canal, have agreed to conclude a Convention to determine the rights and obligations which are to appertain to Costa Rica for her accession to the said Contract. And for that purpose they have appointed their respective Plenipotentiaries, that is to say: His Excellency the President of the Republic of Costa Rica, Agapito Jimenez, Secretary of State in the Department of Foreign Affairs of this Republic; and

His Excellency the President of the Republic of Nicaragua, Mariano Montealegre, Envoy Extraordinary and Minister Plenipotentiary of Nicaragua in the Republic of Costa Rica, who, after exchanging their full powers, and finding them in good and due form, have agreed upon the following Articles:

ART. I. The Republic of Costa Rica accedes to the Contract made at Paris on the 6th of October, 1868, between the Representative of the Republic of Nicaragua, Señor Don Tomas Ayon, and M. Michel Chevalier, a French subject, for the excavation of an Interoceanic Canal; and Costa Rica guarantees to the Contractor (Concesionario) on her own territory, and in all that appertains to her, the same advantages as Nicaragua concedes to him, and which are stipulated in the following Articles.

II. The term of the concession shall be 90 years, reckoned from the day of the opening of the canal.

III. The Contractor is to choose the track which according to the investigations of those who understand the matter shall be considered most convenient; but it is declared at once that the canal must pass up the river San Juan to the Lake of Nicaragua, cross the lake, and terminate in the Pacific between the extreme points of Salinas and Realejo.

IV. The Republic of Costa Rica, the same as that of Nicaragua, shall have a right to be represented at the deliberations of the

* See page 1266.

Council of Administration, by a Commissioner who shall have a consultative vote. If on the constitution of the Company Costa Rica should consider it expedient to become a shareholder for the sum of 1,000,000 dollars at least, her Commissioner shall have a deliberative vote. The shares subscribed for by Costa Rican citizens shall form part of the million dollars which give the Commissioner of the Republic the deliberative vote.

V. The Republic of Costa Rica shall receive from the Inter-oceanic Canal Company a fifth part of the sum which it was to pay to Nicaragua out of its annual profits, according to the stipulation in Article XIII of the contract hereby acceded to.

VI. The necessary lands for the site occupied by the canal, its alopes, rounds, receptacles, canseways, docks, stations, and warehouses, depôts for materials and coals, shall be gratuitously furnished by the State, whether they may have to be obtained from private owners or whether they may belong to the State.

VII. Those lands shall be placed at the disposal of the Company as the works proceed, and according to the requirements for the proper organisation of the construction; so that there may be no delay in the works on this account.

VIII. The same is understood in regard to the lands required for the deposit of the large quantity of refuse that may be produced by the excavation of the canal.

IX. The contractor shall have a right to take from the lands belonging to the State the materials of all kinds, such as timber, stone, lime, puzzolana, earth for filling in, and other things necessary for the construction and maintenance of the canal, without paying any indemnification or tax for them.

With regard to the materials found on private lands, the Company will have to pay for them, but will enjoy in this respect all the immunities and powers which the laws and customs of the country concede to the State when it requires such things.

X. The State grants to the Company the freehold of 4 kilometres of land on each side of the stream of the canal, and this double strip of land will have to be surveyed and marked out by the Company at its own expense, but it is not to be taken possession of until the works have been commenced.

XI. The State grants to the Company besides, a belt of land of the same width of 4 kilometres along the coast of the Lake of Nicaragua from the River San Juan on the north and east to San Miguelito; and on the south and west, that is to say, from the right bank of the river San Juan, to the mouth of the River Sapoá.

XII. It is understood that this grant, as well as that mentioned in Article X, only applies to the lands belonging to the State, and that the latter always retains its right of sovereignty over them; it

likewise reserves the parts or lands which it may think necessary for opening roads. The Republic of Costa Rica may open such roads even in the territory of Nicaragua, and navigate the rivers belonging to that territory, for the purpose of giving an outlet to the canal for the products of its agriculture, industry, and commerce, and for its corresponding importations; and in no case shall Nicaragua put any obstacle in the way of opening such roads, or of the navigation of the said rivers. At the mouth of those rivers Costa Rica shall be at liberty to establish Custom-Houses and bonding warehouses on account of the State, on previous notice to the Government of Nicaragua; but in no case can an armed force be placed there, only the necessary functionaries for the custody and security of the Custom-Houses and bonding warehouses. And, *vice versa*, the Republic of Nicaragua shall be at liberty to open roads in the territory of Costa Rica, and to navigate its rivers for the purposes of her commerce; and in no case shall Costa Rica put any obstacle in the way of opening such roads, or of the navigation of the said rivers. At the mouth of those rivers Nicaragua shall be at liberty to establish Custom-Houses and bonding warehouses, on account of the State, on previous notice to the Government of Costa Rica; but in no way can she place an armed force there, only the necessary functionaries for the custody and security of her Custom-Houses, and bonding warehouses.

XIII. The mines of coal, of gold, of silver, or of any other metal, which may be found in the lands belonging to the Company, shall belong to it by right, under the conditions, rules and regulations established by the mining laws of the country.

XIV. The contractor may import free of Custom-House duty or any other tax, all articles and things necessary for the use of the undertaking, whether for the survey and exploration of the localities, or for the construction, conservation, reparation or improvement of the canal, or for the operations in the workshops which the Company may keep in activity, such as tools, machinery, apparatus, coal, stone, lime, iron, and other metals in the rough or wrought, mining-powder, or any other similar substance. These articles may be unloaded and deposited at any place where they are required. Brandy and spirituous liquors are excluded from the exemption from duty. The Company can only provide itself with these according to the general laws of the country; but this exclusion does not apply either to wine or beer.

XV. The contractor is prohibited from importing into the territory of the Republic, any merchandise for the purpose of sale or barter, unless he pays the Custom-House duties established by law.

XVI. As for those things of which the importation is prohibited by law, the contractor may bring them in if he considers it necessary

to do so for the works of exploration, of construction, conservation, or improvement of the canal; but in no case can be trade with them.

XVII. The Republic of Costa Rica engages to keep its subjects employed by the Company exempt from all civil and military service; but to have a right to that exemption it will be necessary that they should have been at work for at least a month consecutively beforehand on account of the said Company.

XVIII. The Republic of Costa Rica guarantees the Company and its agents, so far as it can, against all attacks from the exterior and the interior, exclusively of Costa Ricans, for each of the two Republics is responsible for the proceedings of its own subjects. If the Company or its agents should suffer any harm from malefactors, they shall have a right to have them brought to justice in accordance with the laws of the country.

XIX. In case of an invasion or imminent danger thereof of the contractor, or the Company, that has taken his place, undertakes to use every effort to induce the Governments that guarantee the free and legitimate use of the canal to send separately or in concurrence, at the request of either of the Governments of Costa Rica and Nicaragua, one or more ships of war to the port where they may be required for the purpose of protecting the persons and property in whose favour the foregoing article has been stipulated; but the said Governments shall have no right to claim from either of the Governments of Costa Rica and Nicaragua, any pecuniary indemnification for that service.

XX. The contractor is authorised to close the River Colorado, if he thinks it necessary, and in general to make such dykes, alterations of course, clearing out, absolute extensions, locks, or any other works in the River San Juan and its affluents and tributaries as well as in its branches and those which issue from it like the Colorado, as may be necessary to maintain the level of water in the canal, to ensure the traffic and to prevent damage from the trees borne down by the current.

XXI. In a general manner the contractor may take and direct towards the canal the waters of the rivers and lakes which are met with on the track, or which may be within reach. The track may traverse the lakes and make use of the bed of the rivers.

XXII. The contractor is invested with all the powers that may be necessary to improve the two ports situated at the extremities of the canal by means of dredges, dykes, piers of any form or material, in accordance with the plans drawn by the engineers of the enterprise. For this purpose the contractor may choose those ports of the Republic which are shown to be preferable by the surveys of the engineers.

XXIII. The contractor may lay down roads, railways for service, and canals of the same nature, for the special purpose of constructing the maritime canal, and for the transport of the necessary materials to the place of the works. He shall not pay any indemnification to the State for the temporary occupation of the lands belonging to it, and over which the said roads, canals, and railways pass. In case those lands belong to private persons, the Company shall enjoy, for the temporary occupation, all those facilities which the constitution and the laws of the Republic accord to the Government on previous declaration of public utility and previous indemnification.

XXIV. Perpetual exemption is granted to the contractor from the imposts on immovables and from all direct taxes for the property of the canal itself, and the buildings and constructions appertaining thereto. He is also guaranteed against every forced loan and military requisition. The same immunity is extended to the lands granted by Articles X, XI, XII, and XIII, for all the time that they remain the property of the Company.

XXV. The foreign agents and functionaries shall also be exempt from direct taxes, forced loans, and military requisitions for all the time that they are in active service. They shall enjoy freedom of conscience and worship in conformity with the constitution and the stipulations in Treaties of commerce with France, England, and the United States of North America.

XXVI. Costa Rica engages not to make any further concession for the opening of a canal or railroad starting from the Port of San Juan de Nicaragua to the Pacific Ocean.

XXVII. Costa Rica cannot impose any tonnage, lighthouse, or other dues on the ships that pass by the canal from one ocean to the other, nor any transit duty, under whatever denomination, on the merchandise conveyed as such in the said ships, or on the passengers or crews.

XXVIII. The merchandise disembarked by those ships and delivered to the commerce of the country, shall be subject to the duties fixed by the general laws of the Republic.

XXIX. The vessels employed by the contractor for towing or in the service of the canal are exempt from every impost. The materials for repairing them and the fuel for working them shall also be free from Custom-House duties. He may also get his vessels from abroad, the same as the machinery and apparatus for his purpose, without paying any kind of impost.

XXX. The tariff for the canal shall be arranged by the Company, for passengers as well as for merchandise and vessels. Any changes therein must be communicated beforehand to the Governments of Costa Rica and Nicaragua, which will cause them to be observed as if they were regulations of public administration. But

Annex 20

**COSTA RICA-NICARAGUA, TREATY FOR THE
DEVIATION OF THE WATERS OF THE COLORADO RIVER
(JIMÉNEZ-MONTEALEGRE), SAN JOSÉ,
ARTICLES 2 AND 4, 21 JUNE 1869**

**SOURCE: SPANISH VERSION: J. M. BONILLA,
COLECCIÓN DE TRATADOS INTERNACIONALES
(MANAGUA: TIPOGRAFÍA INTERNACIONAL,
1909), PP. 403-405.
ENGLISH TRANSLATION BY COSTA RICA**

TRANSLATION

Costa Rica-Nicaragua, Treaty for the Deviation of the Waters of the Colorado River (Jiménez-Montealegre), San José, 21 June 1869

...

Article 2: "The Government of Nicaragua, on its part, undertakes that... the tariffs over freights of products or merchandise for importation or exportation..."

...

Article 4: "In the event that San Juan del Norte ceases being a free port and that the Government of Nicaragua subjects to registration or appraisal the merchandise that is imported or the products that are exported through it, they will remain free from such formalities and from the payment of whatever dues the merchandise and products that Costa Rica imports or exports, without it being allowed in any case... may oppose obstacles to Costa Rica's commerce of import and export... since it is declared that said commerce of import and export of Costa Rica remains absolutely free of any hindrance, impediment or due of any kind."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA



— MANAGUA —

TIPOGRAFIA INTERNACIONAL.—1ª CALLE SUR. NUM. 41

1909

TRATADO

ENTRE

Nicaragua y Costa Rica,

SOBRE DESVIACION DE LAS AGUAS DEL "RIO COLORADO"



MONTEALEGRE = JIMENEZ

1869

EL Gobierno de la República de Costa Rica y el Gobierno de la República de Nicaragua, para completar la "Convención Preliminar", celebrada en San José el 13 de julio de 1868, con relación á la mejora de uno de los dos puertos del Atlántico, nominados "San Juan del Norte ó Greytown" y "Boca del Colorado"; y habiendo los ingenieros de una y otra República hecho sus exploraciones y estudio competentes, y dado cuenta con los informes del caso, que han visto la luz pública; para resolver lo conveniente con el espíritu de la Convención referida, el Gobierno de Costa Rica ha conferido sus Plenos Poderes á Agapito Jiménez, Secretario de Estado en el Despacho de Relaciones Exteriores, y el de la República de Nicaragua á Mariano Montealegre, Enviado Extraordinario y Ministro Plenipotenciario de la misma República,

Quienes después de canjear sus respectivos Plenos Poderes, y de encontrarlos en buena y debida forma, han convenido en los artículos siguientes :

Artículo 1º

El Gobierno de Costa Rica concede al de Nicaragua las aguas del río "Colorado", á fin de que desviándolas de su curso actual, en todo ó en parte, y echándolas sobre el río "San Juan", pueda obtener el restablecimiento ó mejora del puerto de San Juan, de Nicaragua.

Artículo 2º

El Gobierno de Nicaragua por su parte, se compromete, en caso de celebrar algún contrato de tránsito, sea con naturales ó extranjeros, á estipular: que las tarifas sobre fletes de productos ó mercaderías de importación ó exportación

que se establezcan para Nicaragua, se entenderán hechas también en favor de Costa Rica; y que cualquiera gracia, privilegio ó concesión que Nicaragua obtuviere, en cuanto al transporte sobre el río "San Juan", se haga extensivo á Costa Rica, bajo el pie de perfecta igualdad.

Párrafo único.—En la gracia, privilegio ó concesión de que habla el artículo anterior no deben entenderse comprendidos los subsidios pecuniarios que Nicaragua obtenga de la Compañía ó Compañías empresarias de navegación ó de tránsito por el río "San Juan", excepto los establecidos y acordados en el contrato de canalización interoceánica.

Artículo 3º

Los buques de Costa Rica que arribaren al puerto de San Juan del Norte, no pagarán derecho alguno que no esté establecido para los buques nacionales de Nicaragua.

Artículo 4º

En el caso de que San Juan del Norte deje de ser un puerto franco y que el Gobierno de Nicaragua sujete á registro ó aforo las mercaderías que se importen ó los productos que se exporten por él, quedarán libres de tales formalidades y del pago de cualesquiera derechos, las mercaderías y productos que Costa Rica importe ó exporte, sin que en ningún caso, previsto ni imprevisto, ni bajo pretexto alguno pueda oponerse obstáculo al comercio de importación y exportación de Costa Rica, ni sujetarlo á contribución de ninguna especie; pues se declara y establece que dicho comercio de importación y exportación de Costa Rica queda absolutamente libre de toda traba, embarazo y derecho de toda clase.

Artículo 5º

Si en el caso del artículo anterior llegase á suceder que el Gobierno de Nicaragua, por algún trastorno interior, ó por hallarse empeñado en una guerra, no pudiese dar eficaz protección al puerto de San Juan del Norte, el Gobierno de Costa Rica podrá enviar á dicho puerto, previa anuencia del Gobierno de Nicaragua, la fuerza necesaria para proteger los intereses de su comercio, sin que el Gobierno de Nicaragua tenga que hacer ningún costo en el envío y permanencia de esta

fuerza, la cual deberá ser retirada tan luego como cese el peligro.

Si el Gobierno de Nicaragua rehusase prestar su consentimiento para el envío de esta fuerza en los casos indicados, y el comercio de Costa Rica sufre perjuicios por falta de protección, y por consecuencia del trastorno ó de la guerra, el Gobierno de Costa Rica tendrá derecho á reclamar del de Nicaragua, y ésta la obligación de satisfacer los daños y perjuicios recibidos, los cuales serán tasados por peritos nombrados uno por cada Gobierno; y en caso de discordia por un tercero nombrado por estos peritos.

Artículo 6º

El Gobierno de Nicaragua ratifica por esta convención los Tratados que tiene celebrados sobre límites, con el Gobierno de Costa Rica, y ambas partes se someten al arbitraje del Gobierno de los Estados Unidos de Norte América, para dirimir cualquiera cuestión que se suscite, ya sobre aquellos Tratados ó bien sobre la ejecución del presente Convenio.

Artículo 7º

Esta Convención será aprobada por el Presidente de la República de Costa Rica y por el Presidente de la República de Nicaragua, y sometida también á la ratificación del respectivo Poder Legislativo, é inmediatamente después de las ratificaciones se pondrá en ejecución.

En fe de lo cual, ambos Plenipotenciarios la firman en original duplicado, sellándola con sus sellos respectivos en San José, capital de la República de Costa Rica, á los veintún días del mes de junio de mil ochocientos sesenta y nueve.

A. Jiménez.

Marno. Montealegre.

Palacio Nacional—San José, junio veintidós de mil ochocientos sesenta y nueve.

Encontrando la anterior Convención arreglada á las instrucciones conferidas, *se prueba y pasa al Poder Legislativo*, en su oportunidad para su ratificación.

(Rubricado por el señor Presidente de la República.)

A. Jiménez.

Annex 21

COSTA RICA-NICARAGUA, CANALIZATION
CONVENTION (NAVAS-CASTRO), SAN JOSÉ, PREAMBLE,
19 JANUARY 1884

SOURCE: SPANISH VERSION: J. M. BONILLA, *COLECCIÓN
DE TRATADOS INTERNACIONALES* (MANAGUA:
TIPOGRAFÍA INTERNACIONAL, 1909), P. 469.
ENGLISH TRANSLATION BY COSTA RICA

TRANSLATION

Costa Rica-Nicaragua, Canalization Convention (Navas-Castro), San José, 19 January 1884

...
"CONSIDERING: That the construction of the Inter-oceanic Canal through Nicaragua is of general interest for Central America, and in particular for both countries, moved by the desire to facilitate the prompt accomplishment of the task, have decided to celebrate a Convention for such purpose."

...

COLECCION
DE
TRATADOS INTERNACIONALES



FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA



— MANAGUA —

TIPOGRAFIA INTERNACIONAL.—5ª CALLE SUR, NUM. 11

1909

CONVENCIÓN

SOBRE

CANAL

ENTRE

NICARAGUA Y COSTA RICA



NAVAS * CASTRO

1884

LA República de Costa Rica, por una parte y la de Nicaragua por otra,

CONSIDERANDO :

Que la construcción del Canal Interoceánico por Nicaragua es de interés general para Centro América y especialmente para ambos países, animadas del deseo de facilitar la pronta realización de la obra, han resuelto celebrar una Convención con tal objeto.

Al intento, el Gobierno de la República de Costa Rica ha conferido plenos poderes al señor Doctor don José María Castro, Secretario de Estado en el Despacho de Relaciones Exteriores, y el Gobierno de Nicaragua al señor Licenciado don Vicente Navas, su Enviado Extraordinario y Ministro Plenipotenciario;

Quienes, después de haberse comunicado dichos poderes y de haberlos hallado en buena y debida forma, han convenido en los artículos siguientes :

Artículo 1º

La República de Costa Rica garantiza el tres por ciento anual de beneficios netos sobre quince millones de pesos, ó tres quinientos del uno por ciento sobre la suma de setenta y cinco millones de pesos, que se invierta en la construcción del Canal de Nicaragua.

Esta garantía durará veinte años y comenzará desde la fecha en que el Canal sea terminado y abierto al tráfico universal.

Annex 22

COSTA RICA-NICARAGUA, TREATY OF PEACE, FRIENDSHIP,
COMMERCE AND EXTRADITION (NAVAS-CASTRO),
SAN JOSÉ, PREAMBLE, ARTICLES VIII, XIX, XXIX
AND XXXIII, 19 JANUARY 1884

SOURCE: SPANISH VERSION: J. M. BONILLA,
COLECCIÓN DE TRATADOS INTERNACIONALES
(MANAGUA: TIPOGRAFÍA INTERNACIONAL, 1909),
PP. 455-458, 460-461, 463-464.
ENGLISH TRANSLATION BY COSTA RICA

TRANSLATION

Costa Rica-Nicaragua, Treaty of Peace, Friendship, Commerce and Extradition (Navas-Castro), San José, 19 January 1884

"The President of the Republic of Nicaragua and the President of the Republic of Costa Rica, desirous of strengthening as much as possible the relations between both countries and to serve to their common interests by means of a Friendship, Trade, and Extradition Treaty, have agreed to start negotiations towards this purpose..."

...

Article VIII: "...Regarding Civil rights, their attribution and equivalence shall of course be absolute, with no reservations or differences, especially in regard to freedom and safety, both personal and domiciliary, as to the means of acquiring goods of any kind, possessing, keeping, transferring and transporting them inside and outside the Republic and to the practice of trade and navigation...."

...

Article XIX: "...that the imports and exports that are made from one point to the other, either by sea or land, of the articles or natural and industrial products natural to the sender's country shall not pay rights or taxes of any kind, either fiscal or local. To avoid any doubt as well as any fraud, it is agreed that the products referred to in this article, when they enter the territory or dominion of one of the parties, shall be accompanied by a bill of lading issued...in which the origin of said products..."

...

Article XXIX: "When the extradition proceeds, all objects seized that have any relation to the crime and its perpetrators shall be rendered, with due respect to the rights of third parties, to the requesting Republic..."

...

Article XXXIII: "The expenses incurred by the maintenance and transport of the requested individual, as well as the delivery and transport of the objects that must be sent and returned on account of their relation to the crime, shall be paid by the Republic that requests the delivery."

...

COLECCION

DE

TRATADOS INTERNACIONALES

FORMADA POR

José María Bonilla

DE ORDEN DEL

EXCELENTISIMO SEÑOR PRESIDENTE CONSTITUCIONAL
DE LA REPUBLICA

GENERAL DON J. SANTOS ZELAYA



— MANAGUA —

TIPOGRAFIA INTERNACIONAL.—5ª CALLE SUR, NUM. 11

1909